

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
**PHILBERT GORRICK,**

**Plaintiff,**

**- against -**

**NEW YORK CITY TRANSIT AUTHORITY**

**Defendant.**  
----- X

**DECLARATION OF ANN  
BURTON GOETCHEUS IN  
SUPPORT OF DEFENDANT'S  
MOTION TO DISMISS  
CV-08-4396 (GBD)**

**ANN BURTON GOETCHEUS**, pursuant to 28 U.S.C. § 1746, declares:

1. I am an attorney who represents the Defendant in this action and in Plaintiff's earlier disability discrimination action against Defendant, CV-07-2529. I submit this declaration in support of the Defendant's motion, under Fed. Rule Civ. P. 12(b)(6) to dismiss Plaintiff's 2008 Complaint.

2. Plaintiff's 2008 Complaint, 2008-CV-4396 ("2008 federal Complaint") is attached hereto as Exh. 1.

3. This declaration is based upon my personal knowledge of the circumstances relating to the Defendant's obtaining and using information concerning Plaintiff's motor vehicle driver's license and automobile registration kept by the New York State Division of Motor Vehicles in the course of Defendant's conduct of its legal business as a governmental agency and upon my review of Defendant's litigation records kept in the ordinary course of its business.

4. Plaintiff filed a Charge of disability discrimination with the EEOC in August 2006 and a federal lawsuit alleging disability discrimination under federal, state and city law in or about April 2007 ("2007 lawsuit"), 2007-CV-2529. A summary

judgment motion has been fully briefed by the parties and is currently *sub judice* before this Court.

5. Defendant filed a Motion to Amend Its Answer to Assert Counterclaims before this Court in December 2007 in Plaintiff's 2007 federal lawsuit.

6. Plaintiff filed a Charge with the EEOC in December 2007 that alleged that Defendant's motion was retaliatory.

7. This Court denied Defendant's Motion to add counterclaims in February 2008, holding that the counterclaims lacked a common nucleus of operative fact with the disability claims in Plaintiff's 2007 federal lawsuit.

8. Defendant filed a state claim for restitution from Plaintiff in New York County Supreme Court in or about March 2008, Index # 400672/2008, and personally served it on Plaintiff thereafter ("2008 state lawsuit"). A copy of the Verified Complaint in the 2008 state lawsuit is attached as Exh. 2 hereto.

9. Plaintiff here has filed a motion to dismiss Defendant's state lawsuit. A copy of that motion and its supporting papers is attached hereto as Exh. 3. (The copy of the Verified Complaint attached to Plaintiff's motion has been omitted as duplicative of Exh. 2 hereto.)

10. The gravamen of the first Cause of Action in Plaintiff's Complaint in this action is that Defendant improperly obtained information about Plaintiff from the New York State Division of Motor Vehicles ("DMV") in or about September 2007 and disclosed that information to this court in November 2007 in Defendant's response to Plaintiff's motion to quash a subpoena served by Defendant on Plaintiff's employer, Concord Family Services, for records relating to his employment as an information

systems consultant. A copy Defendant's November 2, 2007 letter response to Plaintiff's letter motion to quash Defendant's subpoena on Concord Family Services is attached hereto as Exh. 4. This is believed to be the November 2, 2007 disclosure referenced in Plaintiff's 2008 Complaint, Exh. 1, ¶ 11.

11. Plaintiff also alleges other, unspecified disclosure of his DMV records. Exh. 1, ¶ 12

12. Defendant's access to Plaintiff's DMV records was authorized by the specific terms of the Drivers' Privacy Protection Act. 18 U.S.C. § 2721(b)(1) and (4). As Declarant wrote Plaintiff's counsel on November 7, 2007, "The use of the DMV records by the Transit Authority is permitted under this statute both because NYCTA is indisputably a government agency and also because the information has been used in connection with civil proceedings in Federal and state courts."

13. In this November 7, 2007 letter, Declarant cited *Manso v. Santamarina & Assoc.*, 2005 U.S. Dist. LEXIS 7316, \*9-19 (S.D.N.Y. Apr. 26, 2005), in which Judge Sands upheld the use of information from a motor vehicle record by a private party for purposes similar to those in the filing with the court – to raise questions as to the truth of a sworn statement by the Plaintiff. Copies of Mr. Lichten's letter dated November 6, 2007 that raised the issue of the DPPA and Declarant's reply dated November 7, 2007 are attached as Exhs. 5 and 6 respectively hereto.

14. Significantly, following his receipt of Declarant's letter, Plaintiff's counsel did not raise any objection to Defendant's use of DMV records before Magistrate Judge Peck in the discovery hearing on November 14, 2007, only one week later, or at any time in connection with the 2007 lawsuit.

15. Declarant, an employee of a government agency responsible for its legal defense, properly obtained Plaintiff's DMV records in connection with Defendant's defense against Plaintiff's 2007 lawsuit ("2007 lawsuit"), 2007-CV-2529, now pending before this Court. The 2007 lawsuit was filed on or about April 2, 2007, Defendant's discovery demands were served May 25, 2007 and Plaintiff's Discovery Responses were served on or about August 15, 2007. In his initial discovery responses, Plaintiff refused to provide any information concerning his employment or income, both currently and during his suspension by Defendant from 2000-2006. *See* Exh. 4 hereto, Defendant's November 2, 2007 submission to this Court, *esp.* Exhs. E and F thereto. Exh. G thereto, is Plaintiff's DMV Registration information.

16. As detailed in Exh. 4, Defendant's November 2, 2007 submission to this Court, Plaintiff's income and employment through the period from 2000-2007 – whether as employee or as an independent contractor – were material to issues in the 2007 lawsuit – specifically, first, it was relevant evidence as to whether he is or has been “substantially impaired” in *any* major life activity, second, it is relevant to impeachment of his claims to have sought “reasonable accommodation” during the period in order to return to work at the New York City Transit Authority, and third, it is relevant to whether Plaintiff has sought to mitigate his damages at any time in that period. This issue was not mooted by any purported restriction of damages to a recent period (as Plaintiff's counsel claimed) – a restriction that is not found in the 2007 Complaint.

17. Plaintiff's counsel acknowledged that Plaintiff's tax returns were relevant to the main claims in the 2007 lawsuit at a discovery hearing before Magistrate Judge Peck



on January 31, 2008, Tr. at 7:6-7. The January 31, 2008 transcript is attached hereto as Exh. 7.

18. As detailed, this information concerning Plaintiff's employment and earnings was reasonably believed to be highly relevant to Defendant's defenses to Plaintiff's claims of alleged employment disability discrimination and damages.

19. In addition, Plaintiff's employment and earnings were also relevant to issues concerning Plaintiff's credibility – a serious consideration in the defense against any Plaintiff's claims – where, in prior, sworn testimony and in a sworn affidavit (notarized and submitted by Plaintiff's current counsel), Plaintiff had made representations regarding his lack of earnings from 2000-2004, as well as in submitting a sworn charge of disability discrimination to the EEOC. In addition, his efforts to mitigate damages were highly relevant to any claims of damages. In early 2007, Plaintiff declined an offer of reclassification to a position that did not require him to wear safety shoes for reasons Defendant reasonably believed to be contrived. His long-time possession of alternative employment with far higher remuneration casts considerable doubt on the genuineness of his desire for employment with Defendant.

20. Plaintiff's DMV records demonstrated that, during the period from 2000-2006 while he was not working for Defendant, for much of which he had sworn he had no earnings, he had owned a succession of late-model luxury automobiles. This record cast doubt on the validity of the sworn affidavit of no earnings he had submitted to Defendant and on the credibility of his claim to wish reinstatement to employment at Defendant.

21. Defendant explicitly relied on Plaintiff's affidavit in paying him a back-pay award in excess of \$108,000 in or about November 2006.

22. Plaintiff's DMV records also cast doubt on the accuracy of his sworn testimony at arbitration in 2003 that he was homeless and thus unable to receive mail anywhere other than the union hall, a critical determination that led to a decision by the arbitrator reinstating a grievance otherwise untimely under the terms of the applicable collective bargaining agreement.

23. Defendant accessed Plaintiff's DMV information as appropriate, lawful investigation in support of legitimate and ordinary defensive interests for Defendant, a governmental agency legal department supported by public funds, carrying out its functions, in connection with its defense to Plaintiff's 2007 lawsuit. "Legitimate and ordinary defensive interests furnish all the cause and effect needed to account for it." *United States v. New York City Transit Auth.*, 97 F.3d 672, 678 (2d Cir. N.Y. 1996). The DMV records substantiated Defendant's argument as to the relevance of evidence of Plaintiff's employment and income.

24. Contrary to Plaintiff's Second and Third Causes of Action in his 2008 lawsuit, Defendant advanced its claims against Plaintiff to recover the backpay it paid in reliance on the affidavit he submitted in further support of Defendant's legitimate interests, and not in retaliation for his protected acts. As noted in Defendant's State Complaint, Plaintiff admitted at his deposition that his affidavit was false. *See* Exh. 2 D, Plaintiff's Tr. 130:10-16.

25. Following the denial of Defendant's motion to add counterclaims by this Court's finding, in February 2008, that they lacked nexus to the 2007 lawsuit, Defendant

has filed and served a lawsuit against Plaintiff in New York County Supreme Court, Index No. 400672/2008, to recover the backpay he obtained by fraud.

26. An employer is not barred from taking adverse action against an employee based on after-acquired evidence of an employee's wrong-doing. In this case, the after-acquired evidence supports a claim against Plaintiff for fraud. "In determining appropriate remedial action [where an employer has been found to discriminate – a finding not present here], the employee's wrongdoing becomes relevant not to punish the employee, or out of concern for the relative moral worth of the parties, but to take due account of the lawful prerogatives of the employer in the usual course of its business and the corresponding equities that it has arising from the employee's wrongdoing."

*McKennon v. Nashville Banner Pub. Co.*, 513 U.S. 352, 363 (1995)(holding that after-acquired evidence could be used to mitigate or eliminate certain types of damages).

27. Plaintiff did not obtain immunity for fraudulent acts by virtue of his protected activity nor did that protected activity deprive Defendant of its lawful prerogatives, including the right to seek restitution for moneys Plaintiff wrongfully received pursuant his fraudulent affidavit.

28. The Supreme Court, in *McKennon*, at 864, held that once an employer learns about employee wrongdoing, the employer is not required to ignore the information, "even if it is acquired during the course of discovery in a suit against the employer and even if the information might have gone undiscovered absent the suit."

29. Defendant's action is not retaliatory, it is in fact action consonant with the public interest in safeguarding public funds that, when fraud is uncovered, action is taken to recover the public funds that were paid out. "Reasonable defensive measures do not

violate the anti-retaliation provision of Title VII, even though such steps are adverse to the charging employee and result in differential treatment.” *United States v. New York City Transit Authority*, 97 F.3d 672, 677 (1996).

30. Subsequent to November 2, 2007, Plaintiff's DMV information has been disclosed solely to this Court in connection with Plaintiff's 2007 lawsuit and to the Defendant's process server in or about March 2008 in aid of effectuation of service of Defendant's 2008 State Complaint. Exh. 2.

31. Both the disclosure of DMV information to this Court in November 2007, Exh. 4, and for use in effectuation of service of process were clearly in support of the litigation positions of Defendant, which is, additionally, a governmental agency, all disclosures specifically permitted by the DPPA.

Executed at Brooklyn, New York, this 11th day of June, 2008, subject to the penalties of perjury.

/s/ Ann Burton Goetcheus  
Ann Burton Goetcheus

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

PHILBERT GORRICK,  
Plaintiff,

SUMMONS IN A CIVIL ACTION

V.  
NEW YORK CITY TRANSIT AUTHORITY,  
Defendant.

CASE NUMBER: 08 Civ.

08 CV 4396

TO: (Name and address of Defendant)

New York City Transit Authority  
130 Livingston Street  
Brooklyn, New York 11201

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Stuart Lichten  
Schwartz, Lichten & Bright, P.C.  
275 Seventh Avenue - 17th Floor  
New York, New York 10001

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

(By) DEPUTY CLERK

DATE

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AUTHORITY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

08 CV 4396

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PHILBERT GORRICK,

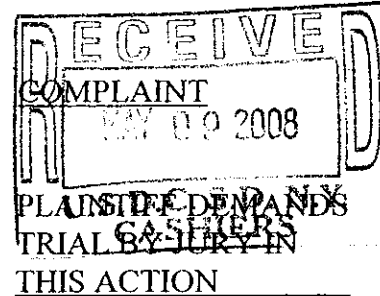
08 Civ.

Plaintiff,

- against -

NEW YORK CITY TRANSIT  
AUTHORITY,

Defendant.  
-----X



Plaintiff Philbert Gorrick ("Gorrick"), by his attorneys, Schwartz, Lichten & Bright, P.C., complains of defendant New York City Transit Authority ("TA"), as follows:

JURISDICTION AND VENUE

1. This is an action brought to remedy violations of the Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq. ("DPPA"), and to remedy retaliation for protected activity under the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq. ("ADA"); the New York State Human Rights Law, Executive Law § 290 et seq. ("Human Rights Law"); and the Administrative Code of the City of New York, § 8-101 et seq. ("Administrative Code").

2. Jurisdiction of this Court is invoked pursuant to 18 U.S.C. § 2724(a), 28 U.S.C. §§ 1331, 1343(a)(4), and 1367, and 42 U.S.C. § 12117(a).

3. Declaratory and injunctive relief, actual and compensatory damages, and other appropriate legal and equitable relief are sought pursuant to 18 U.S.C. § 2724(b) and 42 U.S.C. § 12117(a).

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DEPARTMENT

Compensatory damages are sought pursuant to Executive Law § 297(9) and Administrative Code, § 8-502(a). Punitive damages are sought pursuant to 18 U.S.C. § 2724(b).

4. Costs and attorney fees are sought pursuant to 18 U.S.C. § 2724(b)(3); 42 U.S.C. § 12117(a); and Administrative Code, § 8-502(f).

5. Venue is proper in the Southern District of New York, pursuant to 28 U.S.C. § 1391(b), because the unlawful practices occurred within this judicial district.

6. Plaintiff filed charges of discrimination against defendant with the U.S. Equal Employment Opportunity Commission (“EEOC”) on August 10, 2006, and December 20, 2007. The United States Department of Justice, on March 22, 2007, issued plaintiff a notice informing him of his right to sue defendant. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court under the ADA.

#### PARTIES

7. Gorrick was employed by the TA from July 1991 until June 4, 2007, most recently as a Power Cable Maintainer.

8. Defendant is a public authority created under the laws of the State of New York to operate the New York City subway and bus system.

#### FACTS

9. On March 27, 2007, Gorrick filed an action against the TA in this Court alleging that the TA discriminated against Gorrick because of his disability.

10. On or about September 7, 2007, the TA obtained, from the New York State Division of Motor Vehicles (“DMV”), Gorrick’s date of birth; his address; his DMV identification number; the license plates, vehicle identification number, year, model, and registration expiration dates of vehicles presently and formerly owned by Gorrick; his motor vehicle registration activities; his motor vehicle insurance information; and other personal information.

11. The TA disclosed this information to this Court on November 2, 2007.

12. The TA used this information to attempt to discredit and defame Gorrick on several occasions since November 2, 2007.

13. The TA did not use this information in carrying out its function of operating the New York City subway and bus system. Gorrick has not been employed by the TA since June 4, 2007.

14. The TA did not use this information reasonably in relation to the focus of litigation.

15. On or about March 31, 2008, the TA filed an action against Gorrick in Supreme Court of the State of New York, New York County, alleging that Gorrick committed fraud in connection with his employment and his business.

16. The TA’s complaint against Gorrick could have a detrimental impact on Gorrick’s personal and professional reputation.

#### FIRST CAUSE OF ACTION

17. The TA has knowingly obtained, disclosed, and used personal information from a motor vehicle record for an impermissible purpose. The TA has violated the DPPA.



18. As a result of defendant's unlawful acts, plaintiff has suffered and will continue to suffer injury unless and until this Court grants relief. Defendant engaged in these unlawful practices with willful or reckless disregard of the law.

#### SECOND CAUSE OF ACTION

19. The TA filed a lawsuit against Gorrick because of his opposition to acts prohibited by the ADA. By its acts and practices described above, defendant has violated the ADA.

20. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer injury unless and until this Court grants relief. Defendant engaged in these retaliatory practices with malice and with reckless indifference to plaintiff's rights protected under Federal law.

#### THIRD CAUSE OF ACTION

21. The TA filed a lawsuit against Gorrick because of his opposition to acts prohibited by the Human Rights Law. By its acts and practices described above, defendant has violated the Human Rights Law.

22. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these retaliatory practices.

FOURTH CAUSE OF ACTION

23. The TA filed a lawsuit against Gorrick because of his opposition to acts prohibited by the Administrative Code. By its acts and practices described above, defendant has violated the Administrative Code.

24. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these retaliatory practices.

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment:

ON THE FIRST CAUSE OF ACTION

- (a) declaring that the acts and practices complained of herein are in violation of the DPPA;
- (b) enjoining and permanently restraining these violations of the DPPA;
- (c) directing defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated;
- (d) directing defendant to pay plaintiff actual damages, but not less than liquidated damages in the amount of \$2,500;
- (e) directing defendant to pay plaintiff punitive damages;
- (f) awarding plaintiff reasonable attorney's fees and the costs of this action;
- (g) granting such other and further relief as this Court deems just and proper.

ON THE SECOND CAUSE OF ACTION

- (a) declaring that the acts and practices complained of herein are in violation of the ADA;

(b) enjoining and permanently restraining these violations of the ADA;

(c) directing defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect plaintiff's employment opportunities;

(d) directing defendant to place plaintiff in the position he would have continued to occupy but for defendant's retaliatory treatment of him;

(e) directing defendant to pay plaintiff compensatory damages and damages for his mental anguish and humiliation;

(f) awarding plaintiff reasonable attorney's fees and the costs of this action;

(g) granting such other and further relief as this Court deems just and proper;

ON THE THIRD CAUSE OF ACTION

awarding compensatory damages in an amount not yet ascertained;

ON THE FOURTH CAUSE OF ACTION

(a) awarding compensatory damages in an amount not yet ascertained; and

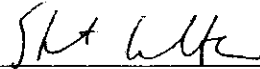
(b) awarding plaintiff reasonable attorney fees and costs of this action;

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all of the causes of action herein.

Dated: New York, New York  
May 7, 2008

SCHWARTZ, LICHTEN & BRIGHT, P.C.



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By: Stuart Lichten (SL-1258)  
Attorneys for Plaintiff  
275 Seventh Avenue - 17th Floor  
New York, New York 10001  
(212) 228-6320

**SUPREME COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK**

-----X  
**NEW YORK CITY TRANSIT AUTHORITY,**

**Plaintiff,**

**- against -**

**PHILBERT GORRICK,**

**Defendant.**  
-----X

**SUMMONS**

**Index No.** 08/400672

**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Brooklyn, New York  
March 31, 2008

**Defendant's Address**

Mr. Philbert Gorrick  
166-05 Highland Avenue  
Apt. 6M  
Jamaica, New York 11432

**OFFICE OF MARTIN B. SCHNABEL, ESQ.**

By: Ann Burton Goetcheus  
ANN BURTON GOETCHEUS  
Gena Usenheimer  
Attorneys for Plaintiff  
New York City Transit Authority  
130 Livingston Street, 12<sup>th</sup> Floor  
Brooklyn, NY 11201  
718-694-3889

**SUPREME COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK**

----- x  
**NEW YORK CITY TRANSIT AUTHORITY,**

**Plaintiff,**

**- against -**

**PHILBERT GORRICK,**

**Defendant.**  
----- x

**VERIFIED  
COMPLAINT**

**Index No.:** 08/400672

Plaintiff, New York City Transit Authority, (hereinafter "Transit Authority"), by its attorney, MARTIN B. SCHNABEL, Vice President and General Counsel, upon information and belief, alleges the following as its Verified Complaint:

**The Parties**

1. At all times hereinafter mentioned Plaintiff, Transit Authority, was and still is a public benefit corporation, duly organized and existing under §§ 1200 et seq. of the Public Authorities Law of the State of New York.

2. Upon information and belief, Defendant was hired by the Transit Authority in 1991 and was promoted to Power Cable Maintainer in 1993, a position in which he remained until his October 2000 suspension. Defendant was terminated pursuant to Civil Service Law § 71, effective June 4, 2007. Upon information and belief the Defendant currently resides at 166-05 Highland Avenue, Apt. 6M, Jamaica, New York 11432.

3. Venue is proper in New York County pursuant to CPLR § 505(a) because Plaintiff's facilities located at 2 Broadway, New York, New York, 10004 are involved in the instant action.

The Facts

4. On July 19, 2006 an arbitration award was issued resolving a labor grievance between Plaintiff Transit Authority and the Defendant, ordering that Defendant receive back pay from May 22, 2002 to June 9, 2004.

5. As a necessary prerequisite to receiving back pay, Defendant signed an affidavit dated October 24, 2006, swearing that from 2000 to 2004:

I was not employed elsewhere in any capacity and did *not derive any earnings* from any other employment, by self or otherwise, nor did I perform any work or services for which I was entitled to be paid now or at any future date, nor did I receive any unemployment insurance benefits, or public assistance.

\* \* \*

I make this affidavit... *in order to induce the Transit Authority to make such payment*, knowing that the authority will rely thereon. (Emphasis added).

See Affidavit, annexed hereto as Exhibit "A".

6. In reliance upon the statements in Defendant's sworn affidavit, Plaintiff remitted \$108,820.20 in back pay to Defendant for the period of his suspension from May 22, 2002 to June 9, 2004. See New York City Transit Authority Payroll Check Stub, annexed hereto as Exhibit "B".

7. On March 27, 2007 Defendant filed a Summons and Complaint against the Transit Authority in District Court for the Southern District of New York, *Gorrick v. New York City Transit Authority*, 07-CV-2529, citing the circumstances surrounding his suspension in 2000 and restoration in 2006, and alleging violations of the Americans with Disabilities Act of 1990, the New York State Human Rights Law and the Administrative Code of the City of New York.

8. During the course of discovery in the Defendant's discrimination case against Plaintiff, Plaintiff first learned that Defendant's representations regarding his lack of earnings from 2000 to 2004 in his affidavit were false.

9. On September 25, 2007 Plaintiff issued a subpoena to Concord Family Services, Inc. ("Concord"), seeking employment information regarding the Defendant, specifically IRS Miscellaneous Income 1099 forms and/or W-2s from 1998 to the present, as well as copies of any resumes, payments, employment applications or contracts between Concord and Defendant.

10. Concord responded to Plaintiff's subpoena producing Defendant's 1099s for the years 2002 through 2006 and contracts between Concord and the Defendant for computer consulting services from 1997 to 1998 and 2000 to the present. *See* Concord Contracts ("Contracts") annexed hereto as Exhibit "C".

11. Defendant himself confirmed his continuous employment with Concord from 1996 to the present in his deposition testimony, annexed hereto as Exhibit "D" at 89:7-90:21, 94:25-97:19, 116:2-118:19, 129:6-130:16.

12. The Contracts for 1997 to 1998 and 2003 to the present name Defendant, Philbert Gorrick, personally as "Contractor". Although the Contracts for the years 2000 to 2002 contain reference to Defendant's "doing business as" entity, Contemporary Technologies, Co., all the Contracts were signed by Defendant in his individual capacity. *See* Exhibit "C".

13. It is undisputed that Concord reported its payments to Defendant to the IRS on Gorrick's personal social security number on IRS form 1099. *See* Defendant's 1099-Miscellaneous income forms, annexed hereto as Exhibit "E".

14. Concord paid Defendant over \$100,000 in each of the years for which it has produced 1099's. Specifically, the reported earnings for 2002 are \$104,907.00; for 2003, \$131,882.01; and



for 2004, \$111,959.46. *See* Exhibit “E”. Defendant’s annual wage as a Power Cable Maintainer during this period was about \$50,000.

15. Pursuant to the contractual terms, Concord compensated Defendant for his consulting services at rate of \$70.00 an hour, *exclusive* of costs of materials and equipment. Consequently, nearly all of Defendant’s reported income on the 1099’s was likely hourly wages from his business endeavors. *See* Exhibit “C”.

16. Defendant admitted that he had “earnings” in the period in question at his deposition, Exhibit “D” at 130:10-16, stating, in answer to the question, “It asks did you have any earnings,” “The Transit Authority knew I had earnings. I would assume any intelligent person would assume that the Transit Authority had records that I had a dual business going, wouldn’t ask me a question like this knowing that I had a dual business going and not say that it’s true.”

17. Defendant’s sworn assurances that he was not employed in any capacity and had no earnings between 2000 and 2004, other than from Plaintiff, are plainly false.

18. It was reasonable of Plaintiff to seek, and rely upon, an Affidavit regarding outside employment and interim earnings prior to issuing back pay.

19. Defendant knew or had reason to know that Plaintiff regarded his misrepresentation as important in determining whether to issue a check for “lost earnings” to Defendant, and Defendant knew that Plaintiff would act upon the basis of the fraudulent information he provided, as the Affidavit specifies: “I make this affidavit ... in order to induce the Transit Authority to make such payment, knowing that the Authority will rely thereon.” *See* Exhibit “A”.

20. As compared to the Plaintiff, Defendant possessed superior knowledge regarding his employment status and non-Transit earnings between 2000 and 2004.

21. Plaintiff's reliance upon Defendant's affidavit was reasonable.

FIRST CAUSE OF ACTION:  
ACTUAL FRAUD

22. Plaintiff repeats, realleges and incorporates herein by reference every allegation set forth in paragraphs 1 through 21 above.

23. Defendant made material misrepresentations in his sworn affidavit of October 24, 2006 regarding his income in the time period from 2000 to 2004 that were knowingly false and were made with intent to deceive the Plaintiff. Plaintiff justifiably relied upon Defendant's representations and as a result has been harmed in the amount of \$108,820.20.

24. As a result of Defendant's actual fraud perpetrated against the Plaintiff, Plaintiff seeks restitution in the amount of \$108,820.20, as well as punitive damages.

SECOND CAUSE OF ACTION:  
FRAUDULENT CONCEALMENT

25. Plaintiff repeats, realleges and incorporates herein by reference every allegation set forth in paragraphs 1 through 24 above.

26. Defendant concealed the material fact that he was receiving income from 2000 to 2004, information which Defendant was duty-bound to disclose in his sworn affidavit of October 24, 2006. Defendant acted with intent to defraud the Plaintiff, and Plaintiff reasonably relied upon Defendant's fraudulent representations. Plaintiff was injured in the amount of \$108,820.20.

27. As a result of Defendant's fraudulent concealment, Plaintiff seeks restitution in the amount of \$108,820.20, as well as punitive damages.

THIRD CAUSE OF ACTION:  
UNJUST ENRICHMENT

28. Plaintiff repeats, realleges and incorporates herein by reference every allegation set forth in paragraphs 1 through 27 above.

29. Due to the Defendant's fraudulent activities, he was unjustly enriched by \$108,820.20 at Plaintiff's expense. Equity and good conscience militate against permitting Defendant to retain what Plaintiff now seeks to recover, and under principles of equity, Defendant should be required to disgorge this money and refund and return it to Plaintiff.

30. Defendant has been unjustly enriched at the Plaintiff's expense and Plaintiff seeks restitution in the amount of \$108,820.20, as well as punitive damages.

FOURTH CAUSE OF ACTION:  
RESTITUTION

31. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1 through 30 of the complaint as if more fully set forth at length herein.

32. Plaintiff seeks an order of restitution by way of a judgment against the Defendant, in favor of Plaintiff for a reimbursement of the monies paid to the Defendant due to his fraudulent misrepresentation, in the amount of \$108,820.20, with interest thereon.

**WHEREFORE**, Plaintiff demands judgment against Defendant, Philbert Gorrick, as follows:

- a) On the first cause of action requiring Defendant to repay the monies paid to him by Plaintiff as a result of Defendant's actual fraud, in the amount of \$108,820.20, together with interest thereon and punitive damages;

- b) On the second cause of action, as a result of Defendant's fraudulent concealment, awarding Plaintiff \$108,820.20 wrongfully obtained from Plaintiff through Defendant's actual fraud, with interest thereon and punitive damages;
- c) On the third cause of action requiring Defendant to disgorge the monies totaling \$108,820.20 that he was wrongfully obtained from Plaintiff, together with interest thereon and punitive damages;
- d) On the fourth cause of action requiring Defendant to refund Plaintiff \$108,820.20 together with interest thereon; and
- e) Granting such other and further relief as this court may deem just and proper.

Dated: Brooklyn, New York  
March 31, 2008

Yours, etc.

**MARTIN B. SCHNABEL**  
Vice President and General Counsel  
**NEW YORK CITY TRANSIT AUTHORITY**  
Attorneys for Defendant  
130 Livingston Street – Room 1233  
Brooklyn, New York 11201  
(718) 694-3889

By:

  
**Ann Burton Goetcheus**  
**Gena Usenheimer**

To: **Defendant**  
Mr. Philbert Gorrick  
166-05 Highland Avenue  
Apt. 6M  
Jamaica, New York 11432

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

x

**NEW YORK CITY TRANSIT AUTHORITY,**

:

**Plaintiff,**

:

**Index No. 081400672**

**- against -**

:

**VERIFICATION**

**PHILBERT GORRICK,**

:

**Respondents.**

:

x

STATE OF NEW YORK)  
COUNTY OF KINGS )

**DAVID BOYLE**, being duly sworn, deposes and says:

That he is an Assistant Secretary for the New York City Transit Authority, that he has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to his own knowledge except as to the matters therein stated to be alleged on information and belief; that as to these matters he believes them to be true; that the source of deponent's information and the grounds of his belief are the records of the New York City Transit Authority and the statements made by employees of the said New York City Transit Authority concerning the subject matter of this proceeding. This verification is made by an Assistant Secretary because the New York City Transit Authority is a public benefit corporation created by Sections 1201 et seq. of the New York Public Authorities Law.

<p>Sworn to before me this  <del>31<sup>th</sup> day of November 2004</del>  <i>March 2008</i>  <i>Ivette Moreno</i>                  NOTARY PUBLIC</p>	<p><i>David Boyle</i>                  DAVID BOYLE</p>
---	--

IVETTE MORENO  
 Notary Public, State of New York  
 No. 01MO5073381  
 Qualified in Kings County  
 Commission Expires February 24, 2011

LABOR RELATIONS MWJ Fax:646-252-5556

Sep 5 2007 13:50 P.01

STATE OF NEW YORK

SS:

COUNTY OF KINGS

I Philbert Gerrick Pass No. 330899

being duly sworn deposes and says:

I was suspended from my position of Power Cable Maintainer  
on October 9, 2000. The suspension  
arose out of disciplinary charges then pending against me. I <sup>have not</sup> ~~was~~  
been restored to duty on \_\_\_\_\_.

During a portion of the aforesaid suspension, from:

2000 to 2004


I was not employed elsewhere in any capacity and did not derive  
any earnings from any other employment, by self or otherwise, nor  
did I perform any work or services for which I was entitled to be  
paid now or at any future date, nor did I receive any  
unemployment insurance benefits, or public assistance.

I make this affidavit in connection with the Award dated July 19, 2006, which  
directed that I be ~~reimbursed~~ <sup>reimbursed</sup> for the period of my suspension  
from May 22, 2002 to June 9, 2004  
in order to induce the Transit Authority to make such payment,  
knowing that the Authority will rely thereon.

Sworn to before me this

24th day of October of 2006

  
Employee's Signature

  
Notary Signature

STUART LICHEN  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 02LH941219  
QUALIFIED IN NEW YORK COUNTY  
CERTIFICATE FILED IN NEW YORK COUNTY  
COMMISSION EXPIRES JULY 25, 20 10

**New York City Transit Authority  
Check Stub Inquiry System  
Payroll Check Stub Information**

Pass Number 330899

Level 1/Level 2 TAW1

Employee Name GORRICK, PHILBERT T

Salary

REGULAR EARNING			.00	108,820.20	FED TAX (M,02)	10,013.82	10,013.82
PEN.GR:IF APPL			108,820.20	108,820.20	SOCIAL SEC TAX	5,840.40	5,840.40
					MEDICARE TAX	1,577.89	1,577.89
					NEW YORK (M,02)	5,172.80	5,172.80
					NY CITY (R)	3,075.59	3,075.59
					PENSION	2,176.40	2,176.40

Current	*****	25,680.50	2,176.40	80,963.30	12-09-2006	4404	80,963.30
YTD	108,820.20	25,680.50	2,176.40	80,963.30		PENSION #	



New York City Transit Authority

Check No. 4404

TA W1 2900 DD 2977 29067 330899

Date 12-10-2006

\$ 80,963.30

PHILBERT T GORRICK  
P.O. BOX 160026,  
BROOKLYN, NY 11216

D 0387

## Contract

THIS AGREEMENT is entered between Concord Family Services (hereafter referred to as CFS) and Philbert Gorrick (hereafter referred to as the Contractor). In consideration of the mutual promises made in this agreement and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The Contractor will provide CFS with a minimum of ten (10) hours of computer consulting services per month from February 1997 through January 1998.
2. The Contractor will provide troubleshooting, repairs and/or upgrading computer services for a period of one (1) year from the date of this agreement.
3. CFS will pay the Contractor at a rate of \$70.00 per hour for the services described in paragraph (2) and the costs of all materials and associated equipments supplied for the purpose of repairs and/or upgrading .

The following addenda, dated the same date as this agreement, are incorporated in, and made apart of, this agreement:

☐ None.

This agreement shall be govern by the laws of New York State.

If any part of this agreement is adjudged invalid, illegal, or unenforceable, the remaining parts shall not be affected and shall remain in full force and effect.

This agreement can be terminated on two (2) weeks notification provided by either party.

This instrument, including any attach exhibits and addenda, constitutes the entire agreement of the parties. No representations or promises have been made except those that are set out in this agreement. This agreement may not be modified



FROM : CONCORD FAMILY SERVICES INC.

FAX NO. : 7186382813

Jan. 16 2008 12:25PM P12

except in writing signed by all the parties.

IN WITNESS WHEREOF the parties have signed this agreement under seal  
on 2/1/97

Concord Family Services

Philbert Gorrick

By: *Lelan E. Floyd*  
Director

By: *[Signature]*  
Contractor

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

\*\*\*\*\*

## Contract

THIS AGREEMENT is entered between Concord Family Services, Inc. (hereafter referred to as CFS) and Philbert T. Gorrick - Contemporary Technologies, Co. (hereafter referred to as the Contractor). In consideration of the mutual promises made in this agreement and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The Contractor will provide CFS with Network Computing/Telephone Systems Consulting Services and Data/Telecommunication Cabling Services for the period February 2000 through January 2001.
2. The Contractor will provide the follow
  - Network/Telecommunication Cabling Installations and Plant Maintenance
  - Telecommunication Installation and Management.
  - Computer Networks Installation, Upgrade, Maintenance and Repairs servicesfor a period of one (1) year from the date of this agreement.
3. CFS will pay the Contractor at a rate of \$70.00 per hour for the services described in paragraph (2) and the costs of all materials and associated equipments supplied for the purpose of this agreement.

The following addenda, dated the same date as this agreement, are incorporated in, and made apart of, this agreement:

None.

This agreement shall be govern by the laws of New York State.

If any part of this agreement is adjudged invalid, illegal, or unenforceable, the remaining parts shall not be affected and shall remain in full force and effect.

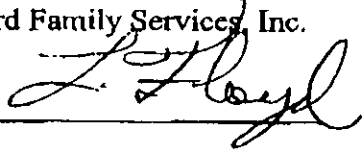
This agreement can be terminated on four (4) weeks notification provided by either party.

This instrument, including any attach exhibits and addenda, constitutes the entire agreement of the parties. No representations or promises have been made except those that are set out in this agreement. This agreement may not be modified except in writing signed by all the parties.

IN WITNESS WHEREOF the parties have signed this agreement under seal on \_\_\_\_\_

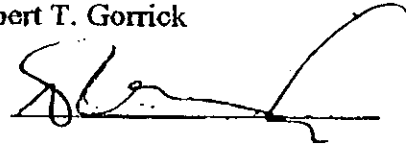
Concord Family Services, Inc.

By: \_\_\_\_\_



Philbert T. Gorrick

By: \_\_\_\_\_



Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

## Contract

THIS AGREEMENT is entered between Concord Family Services, Inc. (hereafter referred to as CFS) and Philbert T. Gorrick - Contemporary Technologies, Co. (hereafter referred to as the Contractor). In consideration of the mutual promises made in this agreement and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The Contractor will provide CFS with Network Computing/Telephone Systems Consulting Services and Data/Telecommunication Cabling Services for the period February 2001 through January 2002.
2. The Contractor will provide the follow
  - Network/Telecommunication Cabling Installations and Plant Maintenance
  - Telecommunication Installation and Management.
  - Computer Networks Installation, Upgrade, Maintenance and Repairs servicesfor a period of one (1) year from the date of this agreement.
3. CFS will pay the Contractor at a rate of \$70.00 per hour for the services described in paragraph (2) and the costs of all materials and associated equipments supplied for the purpose of this agreement.
4. The Contractor will respond upon requests by CFS to all emergencies relating to the Computer/Network and Telecommunication within four (4) hours of notification.

The following addenda, dated the same date as this agreement, are incorporated in, and made apart of, this agreement:

None.

This agreement shall be govern by the laws of New York State.

If any part of this agreement is adjudged invalid, illegal, or unenforceable, the remaining parts shall not be affected and shall remain in full force and effect.

FROM : CONCORD FAMILY SERVICES INC.

FAX NO. : 7186382813

Jan. 16 2008 12:34PM P10

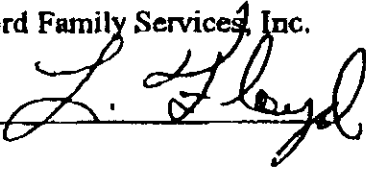
This agreement can be terminated on four (4) weeks notification provided by either party.

This instrument, including any attach exhibits and addenda, constitutes the entire agreement of the parties. No representations or promises have been made except those that are set out in this agreement. This agreement may not be modified except in writing signed by all the parties.

IN WITNESS WHEREOF the parties have signed this agreement under seal on \_\_\_\_\_

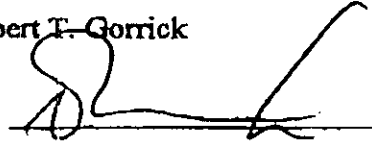
Concord Family Services, Inc.

By: \_\_\_\_\_



Philbert T. Gorrick

By: \_\_\_\_\_



Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

FROM : CONCORD FAMILY SERVICES INC.

FAX NO. : 7186382813

Jan. 16 2008 12:31PM P5

## Contract

THIS AGREEMENT is entered between Concord Family Services Inc. (hereafter referred to as CFS) and Philbert T. Gorrick (hereafter referred to as the Contractor). In consideration of the mutual promises made in this agreement and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The contractor will provide CFS with a minimum of twenty (20) hours of consulting services per month for Computing and Network maintenance at CFS, from February 2003 through January 2005.
2. The contractor will provide troubleshooting, repairs, upgrading, computer and network equipments and servicing for the period of (2) two years from the date of this agreement.
3. CFS will pay the Contractor rate of \$70.00 per hour for the services described in paragraph (2) and the costs of all materials and associated equipments required for the purpose of repairs, upgrade and expansion of the Computer Network.
4. The Contractor will respond upon requests by CFS to all emergencies relating to the Computer/Network within eight hours notification.

The following addenda, dated the same date as this agreement, are incorporated in, and made apart of, this agreement:

- o None.

The agreement shall be governed by the laws of New York State.

If any part of this agreement is adjudged invalid, illegal, or unenforceable, the remaining parts shall not be affected and shall remain in full force and effect.

This agreement can be terminated on two (2) weeks notification provided by either party.

FROM : CONCORD FAMILY SERVICES INC. FAX NO. : 7186382813

Jan. 16 2008 12:32PM P6

This instrument, including any attach exhibits and addenda, constitutes the entire agreement of the parties. No representations or promises have been made except those that are set out in this agreement. This agreement may not be notified except in writing signed by all the parties.

IN WITNESS WHEREOF the parties have signed this agreement under seal on \_\_\_\_\_

Concord Family Services, Inc.

Philbert T. Gorrnick

By:   
Executive Director

By:   
Contractor

DEC 03/ 2007 WED 03:17 AM

P. 002

## Contract

THIS AGREEMENT is entered between Concord Family Services Inc. (hereafter referred to as CFS) and Philbert T. Gorrick (hereafter referred to as the Contractor). In consideration of the mutual promises made in this agreement and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The contractor will provide CFS with a minimum of forty (40) hours of consulting services per month for Computing and Network maintenance at CFS.
2. The contractor will provide troubleshooting, repairs, upgrading, computer and network equipments and servicing for CFS.
3. CFS will pay the Contractor rate of \$70.00 per hour for the services described in paragraph (2) and the costs of all materials and associated equipments required for the purpose of repairs, upgrade and expansion of the Computer Network
4. The Contractor will respond upon requests by CFS to all emergencies relating to the Computer/Network within eight hours notification.

The following addenda, dated the same date as this agreement, are incorporated in, and made apart of, this agreement:

- o None.

The agreement shall be governed by the laws of New York State.

If any part of this agreement is adjudged invalid, illegal, or unenforceable, the remaining parts shall not be affected and shall remain in full force and effect.

This agreement can be terminated by four (4) weeks written notification, provided by either party.



DEC/03/2007 WED 05:18 AM

P.003

This instrument, including any attach exhibits and addenda, constitutes the entire agreement of the parties. No representations or promises have been made except those that are set out in this agreement. This agreement may not be notified except in writing signed by all the parties.

IN WITNESS WHEREOF the parties have signed this agreement under seal on \_\_\_\_\_

Concord Family Services, Inc.

Philbert T. Gorrick

By: Julian E. Floyd  
Executive Director

By: [Signature]  
Contractor

DEC/05/2007 WED 05:18 AM

P. 000

## Duties and Responsibilities

### **Users' Technical Support**

- Provide technical support for moderately complex problems in a timely manner.
- Identifies the cause(s), research, assess, solve and take action to prevent programming and/or system problems from recurring using available resources.
- Use technical resources such as: hardware/software manuals, third party books, technical email lists, Internet newsgroups, manufacture telephone technical support lines, online help systems, etc.
- Monitor and tune software performance; perform moderately complex software trouble shooting.
- Serve as technical support to non-technical administrators, staff and vendors in the provision of all microcomputer/network support and services system wide.
- Perform in-depth technical advisement and problem resolution on Intel-based hardware and software problems including operating system(OS), file operations, local and networked printing.
- Perform moderately complex installations & troubleshoot use of CFS supported applications & clients, TCP/IP client installations e.g., Telnet, FTP, web email clients, network setup & connection (both direct & dial-up network connections).
- Perform in-depth technical advisement and problem resolution on all local area network (LAN) problems for all three sites(CFS HQ, OMH

DEC/05/2007/WED 05:18 AM

P. 007

& PS) supported network operating system (NOS) such as Windows 2003, Linux, & Sun Microsystems Solaris.

- Make recommendations for NOS servers and software. Perform installation, configuration, management and maintenance.
- Integration of new/existing computer systems into LAN environment including server, client & peripheral equipment installation/configuration and connecting the LAN environment to the Internet to facilitate Email(s), Web and VPN access.
- Troubleshoot network connectivity problems for both direct network connections and dial-up/VPN connections.
- Provide hardware support such as installation of network cards, reformatting of hard disk drives when required.
- Enforce established security procedures to mitigate or isolate the impact of network intrusions, virus attacks or other incidents from resources internally or externally.

#### **Database Management and Administrator**

- Work with source system subject matter experts to understand the source data structures and data item definitions.
- Monitor and track software versions, fixes, and vendor announcements.
- Tests, correct, refine changes and error to database(s)
- Established physical database access parameters.
- Defines and specifies user access levels.
- Define, plan, and implement backup/recovery strategies.

DEC/05/2007 WED 05:18 AM

P. 000

- Work close with the application developer/vendor(s) in the performance of advanced technical problem diagnostics and resolution.

### Networking

- Install and configure voice and data communication cable and hardware, e.g., workgroup switch, gateway or functional server, firewalls, using established procedures.
- Troubleshoot and perform corrective measures to resolve or avoid problems with voice or data networks.
- Corrective action may include replacement or reconfiguration of hardware, software, firmware or physical network connections. It may also involve the coordination and/or collaboration with other vendors, e.g., Verizon, Convad Communications, Fund EZ, Keltech, ADP etc...
- Use of appropriate test equipments, such as UTP cable tester, network protocol analyzer, to diagnose and isolate network problems.
- Monitor network performance with appropriate hardware and software tools.
- Install and terminate various types of standard, low-voltage communication cabling, including but not limited to, CAT 5e, Cat 6 UTP, CATV coax, fiber-optic(single-mode/multi-mode)

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 - - - - -x  
5 PHILBERT GORRICK,

6 Plaintiff,

7 -against-

8 NEW YORK CITY TRANSIT AUTHORITY,

9 Defendant.  
- - - - -x

10 130 Livingston Street  
11 Brooklyn, New York

12 December 13, 2007  
13 10:10 A.M.

14 DEPOSITION of PHILBERT GORRICK, the  
15 Plaintiff in the above-entitled action,  
16 held at the above time and place, taken  
17 before Tracy Vasta, a Shorthand Reporter  
18 and Notary Public of the State of New  
19 York, pursuant to the Federal Rules of  
20 Civil Procedure, Court Order and  
21 stipulations between Counsel.  
22

23 \* \* \*  
24  
25

RECEIVED  
MTA NYC TRANSIT  
2007 DEC 20 PM 12:04  
GENERAL LAW & CONTRACTS  
LAW DEPARTMENT

<p>1 2 APPEARANCES: 3 4 SCHWARTZ, LICHTEN &amp; BRIGHT, P.C. 5 Attorneys for Plaintiff 6 275 Seventh Avenue 7 Suite 1700 8 New York, New York 10001 9 BY: STUART LICHTEN, ESQ. 10 11 OFFICE OF THE GENERAL COUNSEL 12 NEW YORK CITY TRANSIT AUTHORITY 13 Attorneys for Defendant 14 130 Livingston Street 15 12th Floor 16 Brooklyn, New York 11201 17 BY: ANN BURTON GOETCHEUS, ESQ. 18 19 ALSO PRESENT: GENA B. USENHEIMER, ESQ. 20 GUSTAVE RIVERA, JR. (partial) 21 22 * * * 23 24 25</p>	<p>4 1 2 PHILBERT GORRICK, the Plaintiff 3 herein, having first been duly sworn by the 4 Notary Public, was examined and testified as 5 follows: 6 EXAMINATION BY 7 MS. GOETCHEUS: 8 THE NOTARY PUBLIC: Please state 9 your full name and current address for 10 the record. 11 THE WITNESS: Philbert Gorrick, 12 166 -05 Highland Avenue, Jamaica, New 13 York 11432. 14 Q Mr. Gorrick, I'd ask you to 15 speak up both for the reporter's benefit 16 and also for mine. I have an ear 17 infection and so I'm kind of deaf in one 18 ear these days. As you know, I am Ann 19 Goetcheus. I'm an attorney representing 20 the Transit Authority. Please address 21 your testimony to the court reporter. 22 Your answers need to be vocal. Please 23 don't just nod. If you need to use the 24 restroom or take a rest or would like to 25 speak with your counsel, please let me</p>
<p>3 1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED AND AGREED, by 4 and among counsel for the respective 5 parties hereto, that the filing, sealing 6 and certification of the within deposition 7 shall be and the same are hereby waived; 8 IT IS FURTHER STIPULATED AND AGREED 9 that all objections, except as to form of 10 the question, shall be reserved to the 11 time of the trial; 12 IT IS FURTHER STIPULATED AND AGREED 13 that the within deposition may be signed 14 before any Notary Public with the same 15 force and effect as if signed and sworn to 16 before the Court. 17 * * * 18 19 20 21 22 23 24 25</p>	<p>5 1 PHILBERT GORRICK 2 know. We will try to accommodate you. 3 The only limitation is that you cannot 4 take a break while a question is pending. 5 Do you understand? 6 A I understand that. 7 Q If you don't hear a question, 8 say so and the court reporter or I will 9 repeat it. If you don't understand a 10 question, please say so and I will 11 rephrase it or have the court reporter 12 read it back. If you do not know or do 13 not remember the information necessary to 14 answer a question, please tell me so. 15 Have you taken any medications 16 in the last twenty-four hours? 17 A No. 18 Q Do you regularly take any 19 medication? 20 A No. 21 Q I'm asking about 22 non-prescription medication as well as 23 prescription medication. Is your 24 answer -- do you take any non-prescription 25 medication?</p>

<p>6</p> <p>1 PHILBERT GORRICK</p> <p>2 A Yeah, as needed, like</p> <p>3 antihistamines for colds or flu's,</p> <p>4 whatever. If I have a cold, I will take</p> <p>5 flu medicines.</p> <p>6 Q Have you taken any in the last</p> <p>7 twenty-four hours?</p> <p>8 A No.</p> <p>9 Q Are you under the influence of</p> <p>10 any drugs or other substance that would</p> <p>11 impair your ability to answer questions</p> <p>12 here today?</p> <p>13 A Oh, no.</p> <p>14 Q If you answer my question, I</p> <p>15 will assume you have heard it, understood</p> <p>16 it and have given me your best</p> <p>17 recollection.</p> <p>18 A Yes.</p> <p>19 Q I will be asking you questions</p> <p>20 relating to your claims in this action</p> <p>21 against the Transit Authority. Do you</p> <p>22 understand the instructions that I have</p> <p>23 just given you?</p> <p>24 A Yes.</p> <p>25 Q First I'd like to deal with some</p>	<p>8</p> <p>1 PHILBERT GORRICK</p> <p>2 A Eva Frank.</p> <p>3 Q And who were the others that you</p> <p>4 testified that you were living with?</p> <p>5 A Another sister.</p> <p>6 Q And what's her name?</p> <p>7 A Cara Dukes.</p> <p>8 Q And where did she live?</p> <p>9 A I know she lives -- she used to</p> <p>10 live at Highland. That's Highland</p> <p>11 Boulevard and that's in Cyprus, between</p> <p>12 Jamaica -- between Brooklyn and Queens,</p> <p>13 that's it.</p> <p>14 Q And what's the number?</p> <p>15 A The number, meaning?</p> <p>16 Q The house number.</p> <p>17 A It's an apartment. It's 808 --</p> <p>18 I'm not quite sure. The apartment number</p> <p>19 is 808.</p> <p>20 Q What's the street address?</p> <p>21 A I don't know the street address.</p> <p>22 It's on Highland Boulevard.</p> <p>23 Q Between what and what?</p> <p>24 A I can't remember.</p> <p>25 Q And who else did you say you</p>
<p>7</p> <p>1 PHILBERT GORRICK</p> <p>2 background matters. I think you testified</p> <p>3 as to your address. How long have you</p> <p>4 lived at that address?</p> <p>5 A I've been living there in and</p> <p>6 out for a year.</p> <p>7 Q What do you mean by "in and</p> <p>8 out"?</p> <p>9 A Well, I've been staying there</p> <p>10 for some time and the person who has been</p> <p>11 living there recently left, so I have</p> <p>12 assumed the responsibility of the</p> <p>13 apartment.</p> <p>14 Q By "some time," what do you mean</p> <p>15 by "some time"?</p> <p>16 A Well, I have been living there</p> <p>17 now continuously for about a year.</p> <p>18 Q And where were you living prior</p> <p>19 to that?</p> <p>20 A Well, I been living my sisters,</p> <p>21 my cousins, friends.</p> <p>22 Q And where does your sister live?</p> <p>23 A She lived at 87-40 Wexford</p> <p>24 Terrace in Jamaica Estates.</p> <p>25 Q And what is your sister's name?</p>	<p>9</p> <p>1 PHILBERT GORRICK</p> <p>2 have been living with?</p> <p>3 A That's about it.</p> <p>4 Q Prior to your current residence,</p> <p>5 when did you last have a fixed abode?</p> <p>6 A 2001.</p> <p>7 Q And why is that?</p> <p>8 A I couldn't afford to pay my rent</p> <p>9 and my wife and I live separated.</p> <p>10 Q Are you still married?</p> <p>11 A I am still married,</p> <p>12 unfortunately.</p> <p>13 Q And when did you separate?</p> <p>14 A Okay, I was asked not to -- an</p> <p>15 order of protection was issued -- I can't</p> <p>16 remember. Sometime in 2000-2001.</p> <p>17 Q And since that time you have not</p> <p>18 lived with your wife?</p> <p>19 A No.</p> <p>20 Q What is the highest level of</p> <p>21 education that you have received?</p> <p>22 A College.</p> <p>23 Q And where did you obtain it?</p> <p>24 A University of Guyana.</p> <p>25 Q Did you receive a degree?</p>

<p style="text-align: right;">10</p> <p>1 PHILBERT GORRICK</p> <p>2 A No.</p> <p>3 Q How many years of college did</p> <p>4 you attend?</p> <p>5 A Six.</p> <p>6 Q How many credits did you</p> <p>7 receive?</p> <p>8 A About a hundred fifty, hundred</p> <p>9 sixty.</p> <p>10 Q What was your major field of</p> <p>11 study?</p> <p>12 A Electrical engineering.</p> <p>13 Q How did it happen that you did</p> <p>14 not get a degree?</p> <p>15 A I was on a scholarship with</p> <p>16 Guyana government and I came to America</p> <p>17 and it broke the scholarship, so they</p> <p>18 didn't want me to --</p> <p>19 Q Could you slow down?</p> <p>20 A I was on scholarship. Education</p> <p>21 is free in Guyana and I was going to serve</p> <p>22 them and I came here, I had to come here,</p> <p>23 so that was it.</p> <p>24 Q How old were you when you</p> <p>25 emigrated?</p>	<p style="text-align: right;">12</p> <p>1 PHILBERT GORRICK</p> <p>2 Guyana government and I had to migrate</p> <p>3 here, so as a result --</p> <p>4 Q Why did you have to migrate</p> <p>5 here?</p> <p>6 A My mother petitioned for us and</p> <p>7 I had to be here.</p> <p>8 MS. GOETCHEUS: I would like to</p> <p>9 mark for identification as Defendant's</p> <p>10 Exhibit A a document captioned "Charge</p> <p>11 of Discrimination" dated August 9,</p> <p>12 2006.</p> <p>13 [The document was hereby marked</p> <p>14 as Defendant's Exhibit A for</p> <p>15 identification, as of this date.]</p> <p>16 Q All right, if you would please</p> <p>17 review this document (handing).</p> <p>18 A (Perusing.) Yes.</p> <p>19 Q Do you recognize this document?</p> <p>20 A Yes.</p> <p>21 Q Is this your signature?</p> <p>22 A Yes.</p> <p>23 Q Is this charge true to the best</p> <p>24 of your knowledge?</p> <p>25 A Yes.</p>
<p style="text-align: right;">11</p> <p>1 PHILBERT GORRICK</p> <p>2 A Seventeen years ago. I'm 42</p> <p>3 now. That would be 35.</p> <p>4 Q If you're 42 now --</p> <p>5 A 52.</p> <p>6 Q Oh, 52? I'm sorry, I misheard</p> <p>7 you. So you were 35. You had -- I don't</p> <p>8 understand the reason you didn't get a</p> <p>9 degree. If you were 35 years old and had</p> <p>10 been in school for -- when did you begin</p> <p>11 the University of Guyana?</p> <p>12 A 1982.</p> <p>13 Q And you attended for six years?</p> <p>14 A Yes.</p> <p>15 Q For six years continuously?</p> <p>16 A Continuously, yes. Well, no, we</p> <p>17 don't take continuously; we have to do</p> <p>18 national service. There are breaks.</p> <p>19 Education is free. It's something like a</p> <p>20 Peace Corps here. You attend for a period</p> <p>21 of time, go in national service, and you</p> <p>22 return and continue it.</p> <p>23 Q Can you explain again why it is</p> <p>24 you didn't get a degree?</p> <p>25 A I was on scholarship with the</p>	<p style="text-align: right;">13</p> <p>1 PHILBERT GORRICK</p> <p>2 Q In the second paragraph it</p> <p>3 states "In October 2000, I was suspended</p> <p>4 because due to my disability I could not</p> <p>5 wear new safety boots distributed by the</p> <p>6 Authority. I requested reasonable</p> <p>7 accommodation." What accommodation did</p> <p>8 you request in October 2000?</p> <p>9 A That I be allowed to wear the</p> <p>10 same footwear that I was wearing.</p> <p>11 Q Did that footwear have steel or</p> <p>12 fiberglass composite toes?</p> <p>13 A No, I -- it didn't have</p> <p>14 fiberglass composite toes, no.</p> <p>15 Q Did you have documentation that</p> <p>16 its sole met the electrical hazard</p> <p>17 standards of the Transit Authority?</p> <p>18 A No.</p> <p>19 Q Did that footwear meet other</p> <p>20 stated requirements of the Transit</p> <p>21 Authority for Transit Authority safety</p> <p>22 shoe?</p> <p>23 A I don't understand the question.</p> <p>24 Q Okay, the charge goes on to say</p> <p>25 "and for years my union and I have</p>



<p style="text-align: right;">14</p> <p>1 PHILBERT GORRICK</p> <p>2 suggested to the Authority various</p> <p>3 alternatives to the Authority's boots."</p> <p>4 What alternative to the Authority's boots</p> <p>5 had you suggested that you were able to</p> <p>6 wear?</p> <p>7 A That the boots I was wearing, I</p> <p>8 was quite capable of wearing. That I was</p> <p>9 wearing these boots without a problem. I</p> <p>10 was never required to wear these boots</p> <p>11 (indicating) other than the boots I was</p> <p>12 hired with and the boots I was wearing for</p> <p>13 the past nine years prior to these</p> <p>14 charges.</p> <p>15 Q And did those boots comply with</p> <p>16 the ANCI/OSHA standard?</p> <p>17 A We weren't aware of an ANCI/OSHA</p> <p>18 standards in 1991 when I was hired.</p> <p>19 Q That's not the question. Did</p> <p>20 they comply with the standard?</p> <p>21 A I don't know if there was a</p> <p>22 standard.</p> <p>23 Q It then states "On August 8,</p> <p>24 2006, the Authority refused to reinstate</p> <p>25 me under any circumstances." What does</p>	<p style="text-align: right;">16</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Had you, in fact, on August 8,</p> <p>3 2006, gone to the cable section?</p> <p>4 A I don't know, I can't -- maybe,</p> <p>5 maybe not. I don't know, I can't -- I</p> <p>6 don't have any documents.</p> <p>7 Q Were you ready and able to</p> <p>8 return to work on August 8, 2006?</p> <p>9 A I was -- on August 8, I was just</p> <p>10 as capable of working as I was -- June --</p> <p>11 the 9th of July 1991, when I was hired.</p> <p>12 Q That's not my question. My</p> <p>13 question is were you ready and able to</p> <p>14 return to work on August 8, 2006. It's</p> <p>15 not your medical condition I'm asking</p> <p>16 about. If you had been returned to</p> <p>17 work --</p> <p>18 A Yes.</p> <p>19 Q -- on August 8, 2006, would you</p> <p>20 have been able to return to work?</p> <p>21 A Yes, ma'am.</p> <p>22 Q Had you given notice to Concord</p> <p>23 Family Services -- were you employed at</p> <p>24 that time by Concord Family Services?</p> <p>25 A I was never employed by Concord</p>
<p style="text-align: right;">15</p> <p>1 PHILBERT GORRICK</p> <p>2 this refer to? It's the last sentence.</p> <p>3 A I -- I -- I don't understand</p> <p>4 the -- I don't understand what it is.</p> <p>5 Q In your charge, you say "On</p> <p>6 August 8, 2006, the Authority refused to</p> <p>7 reinstate me under any circumstances." To</p> <p>8 what are you referring?</p> <p>9 A I'm referring to my job.</p> <p>10 Q And what happened on August 8,</p> <p>11 2006?</p> <p>12 A On August 8, 2006, despite the</p> <p>13 fact that the Transit Authority was aware</p> <p>14 -- was made-to be aware that with my</p> <p>15 medical condition, my limitations, they</p> <p>16 refused to reinstate me.</p> <p>17 Q Who refused to reinstate you?</p> <p>18 A The medical assessment, the</p> <p>19 doctor, including Mr. Gus Rivera, who I</p> <p>20 was asked to report to during the period</p> <p>21 of time the exception was take place.</p> <p>22 Q Did you go to the medical</p> <p>23 department on August 8, 2006?</p> <p>24 A May have, may not. I don't</p> <p>25 quite remember the dates.</p>	<p style="text-align: right;">17</p> <p>1 PHILBERT GORRICK</p> <p>2 Family Services.</p> <p>3 Q Were you employed as a</p> <p>4 contractor by Concord Family Services, Mr.</p> <p>5 Gorrick?</p> <p>6 A The business I own -- no, ma'am,</p> <p>7 I was never employed by Concord as a</p> <p>8 contractor. I was employed by a business</p> <p>9 who had a contract with Concord Family</p> <p>10 Services.</p> <p>11 Q The question remains -- the</p> <p>12 quibble as to who your employer in your</p> <p>13 mind is, you are a -- Concord Family</p> <p>14 Services obtained your services; is that</p> <p>15 correct?</p> <p>16 A Obtained the services of -- no,</p> <p>17 ma'am, they obtained the services of</p> <p>18 Contemporary Technologies, which I happen</p> <p>19 to be the owner, and as a result whatever</p> <p>20 services they derived -- they derived via</p> <p>21 that company doesn't mean me.</p> <p>22 Q Did you provide those services?</p> <p>23 A My company did the services.</p> <p>24 Q Did you personally provide those</p> <p>25 services?</p>

<p style="text-align: right;">18</p> <p>1 PHILBERT GORRICK</p> <p>2 A At some point, from time to</p> <p>3 time, when my presence was then required.</p> <p>4 Otherwise, then the services was provided</p> <p>5 through the company.</p> <p>6 MS. GOETCHEUS: I would like to</p> <p>7 mark for identification as Defendant's</p> <p>8 Exhibit B your complaint in this</p> <p>9 action dated March 26, 2007.</p> <p>10 [The document was hereby marked</p> <p>11 as Defendant's Exhibit B for</p> <p>12 identification, as of this date.]</p> <p>13 Q Do you recognize this document</p> <p>14 (handing)?</p> <p>15 A (Perusing.) Yes.</p> <p>16 Q Have you seen it before?</p> <p>17 A Yes.</p> <p>18 Q Are you familiar with its</p> <p>19 representations?</p> <p>20 A Yes, I'm familiar. Yes.</p> <p>21 Q Are its representations</p> <p>22 accurate?</p> <p>23 A I would think so, yes.</p> <p>24 Q Turning to page three, paragraph</p> <p>25 nine, it states "For several decades,</p>	<p style="text-align: right;">20</p> <p>1 PHILBERT GORRICK</p> <p>2 A For eight hours, if I have to.</p> <p>3 Q When did you last experience</p> <p>4 this difficulty?</p> <p>5 A Every day, if I stand in excess</p> <p>6 of eight hours.</p> <p>7 Q When did you last stand in</p> <p>8 excess of eight hours?</p> <p>9 A Not for a very long time.</p> <p>10 Q Do you experience this</p> <p>11 difficulty when you stand for periods</p> <p>12 shorter than eight hours?</p> <p>13 A Sometimes, yes.</p> <p>14 Q When did you last experience it</p> <p>15 when you stood for a period shorter than</p> <p>16 eight hours?</p> <p>17 A I can't remember.</p> <p>18 Q Please describe the nature of</p> <p>19 the difficulty you experience in walking.</p> <p>20 A Well, walking is a problem, as</p> <p>21 well, so if I have to walk persistently</p> <p>22 for long periods of time, my legs would</p> <p>23 swell.</p> <p>24 Q And how long a period of time</p> <p>25 causes this difficulty?</p>
<p style="text-align: right;">19</p> <p>1 PHILBERT GORRICK</p> <p>2 Gorrick has been diagnosed with severe</p> <p>3 venous stasis disease, with stasis</p> <p>4 dermatitis and recurrent ulcers in the</p> <p>5 ankle region. Due to this disability,</p> <p>6 Gorrick occasionally has difficulty</p> <p>7 standing and walking, but he always has</p> <p>8 been able to perform the essential</p> <p>9 functions of a power cable maintainer."</p> <p>10 Please describe the difficulty</p> <p>11 you experienced in standing.</p> <p>12 A Are you finished reading here</p> <p>13 or --</p> <p>14 Q Yes.</p> <p>15 A Oh, okay.</p> <p>16 Q I'm asking you a question.</p> <p>17 Please describe the nature of the</p> <p>18 difficulty you experience in standing.</p> <p>19 A I can't stand for long hours,</p> <p>20 prolonged period of time, without sitting.</p> <p>21 My feet swell. I have varicose veins. I</p> <p>22 have a circulatory problem and my legs</p> <p>23 swell. So if my legs swell, I have to</p> <p>24 sit. Can't stand sustained with my legs.</p> <p>25 Q How long can you stand?</p>	<p style="text-align: right;">21</p> <p>1 PHILBERT GORRICK</p> <p>2 A If I have to walk for a period</p> <p>3 for excess of eight hours.</p> <p>4 Q When did you last experience</p> <p>5 this difficulty?</p> <p>6 A I can't remember.</p> <p>7 Q Do you experience this</p> <p>8 difficulty when you walk for shorter</p> <p>9 periods than eight hours?</p> <p>10 A Sometimes, yes.</p> <p>11 Q For what period have you</p> <p>12 experienced this difficulty shorter than</p> <p>13 eight hours?</p> <p>14 A I can't remember.</p> <p>15 Q When did you last experience</p> <p>16 this difficulty?</p> <p>17 A I don't bring myself -- I can't</p> <p>18 remember that. I don't bring myself --</p> <p>19 because of the experience I have, I don't</p> <p>20 do it. I don't push myself to the point</p> <p>21 where I have to subject myself to any</p> <p>22 difficulty.</p> <p>23 Q What limitation do you impose on</p> <p>24 yourself on walking?</p> <p>25 A I stop when I need to.</p>

<p style="text-align: right;">22</p> <p>1 PHILBERT GORRICK</p> <p>2 Q No, no, when do you stop? What</p> <p>3 limitation do you impose on yourself, on</p> <p>4 your walking; limitation of distance,</p> <p>5 limitation of hours?</p> <p>6 A Limitation of distance,</p> <p>7 limitation of hours, limitation as to how</p> <p>8 I feel. If I feel that day my legs are</p> <p>9 going to hurt me, I would stop.</p> <p>10 Q You would stop when? After how</p> <p>11 much? How much walking can you tolerate</p> <p>12 on a regular basis?</p> <p>13 A Ma'am, it depends. It depends</p> <p>14 on the terrain I'm walking, what type of</p> <p>15 shoes I'm walking with, the ground I'm</p> <p>16 walking on, number of things, factors. So</p> <p>17 I can't clearly tell you without some</p> <p>18 definition, without some definite, I can</p> <p>19 stop walking for two hours or three hours,</p> <p>20 because I can walk for six hours down</p> <p>21 incline, but if I have to walk on incline,</p> <p>22 I can stop in an hour. If I have to walk</p> <p>23 on rugged terrain, obviously that</p> <p>24 situation would vary. So it's not a solid</p> <p>25 thing.</p>	<p style="text-align: right;">24</p> <p>1 PHILBERT GORRICK</p> <p>2 A Well, walking is a normal act,</p> <p>3 should be, so if I walk and I feel pain, I</p> <p>4 stop.</p> <p>5 Q Okay, and you say maybe last</p> <p>6 week you experienced that. Did you</p> <p>7 experience that last week?</p> <p>8 A This happens so frequently, I</p> <p>9 may have experienced it last week.</p> <p>10 Q Did you?</p> <p>11 A I can't remember.</p> <p>12 Q Did you experience it this week?</p> <p>13 A I can't remember.</p> <p>14 Q How many times a month do you</p> <p>15 experience it?</p> <p>16 A Four or five times a month.</p> <p>17 Q And what do you do when you</p> <p>18 experience it?</p> <p>19 A Sit, elevate my legs.</p> <p>20 Q In your complaint, paragraph</p> <p>21 fourteen, you claim that the Transit</p> <p>22 Authority discriminated against you</p> <p>23 because of disability. What do you claim</p> <p>24 were acts of discrimination?</p> <p>25 A The fact that they're asking me</p>
<p style="text-align: right;">23</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Let's go over the types of</p> <p>3 terrain. On rugged terrain, how long can</p> <p>4 you walk?</p> <p>5 A Well, I said it depends on the</p> <p>6 terrain and I would -- can't think from --</p> <p>7 in abstract what the terrain might be.</p> <p>8 But if it's very rugged, might be two</p> <p>9 hours. If it's smooth -- if it's uphill,</p> <p>10 might be an hour, half an hour. Depends</p> <p>11 on the terrain.</p> <p>12 Q When did you last experience</p> <p>13 difficulty in walking?</p> <p>14 A I can't remember that. Maybe</p> <p>15 last week. I can't tell you definite.</p> <p>16 Q I would ask that you try to give</p> <p>17 me a definite time. Did you experience</p> <p>18 difficulty walking last week?</p> <p>19 A Maybe.</p> <p>20 Q Under what circumstances?</p> <p>21 A Maybe normal circumstances</p> <p>22 walking.</p> <p>23 Q What are "normal circumstances"?</p> <p>24 You've described different kinds of</p> <p>25 terrain. What is "normal circumstances"?</p>	<p style="text-align: right;">25</p> <p>1 PHILBERT GORRICK</p> <p>2 to wear a shoe that has -- to wear shoes</p> <p>3 that has injured me, and continue to</p> <p>4 insist that I wear those shoes. It's a</p> <p>5 form of discrimination, the fact that they</p> <p>6 knew when they hired me that I couldn't</p> <p>7 possibly wear those shoes that they were</p> <p>8 asking me to wear in 2000.</p> <p>9 Q Did you request accommodation?</p> <p>10 A Multiple times. I think we said</p> <p>11 that in the earlier -- in Exhibit 1 (sic).</p> <p>12 Q And what accommodation did you</p> <p>13 request?</p> <p>14 A That I be allowed to wear the</p> <p>15 same shoes I've been wearing for the</p> <p>16 previous nine years I've been working with</p> <p>17 Transit Authority.</p> <p>18 Q And when did you make that</p> <p>19 request?</p> <p>20 A Multiple times, from the time I</p> <p>21 was made to be disciplined for not wearing</p> <p>22 the shoes that they asked me to wear in</p> <p>23 2000.</p> <p>24 Q And which discipline for not</p> <p>25 wearing the shoes do you refer to?</p>

26

PHILBERT GORRICK

1 A The very first one, which would  
2 be -- with the very first one would be  
3 sometime in -- in March or -- I think it  
4 was March or April. Then the second one  
5 in May. As a matter of fact, the charges  
6 were withdrawn in May and then  
7 reinstituted again in October. All the  
8 time, I made sure -- in the seven years it  
9 took to arbitrate the matter, through that  
10 arbitration process, I asked for  
11 reasonable accommodations.

12 Q So what you're referring to is  
13 2000? When you talk about March, April,  
14 May and October, that's the year 2000?

15 A 2000, 2000.

16 Q In your complaint, paragraph  
17 seventeen, claims are asserted for mental  
18 anguish and humiliation. Please describe  
19 the nature of mental anguish and  
20 humiliation you claim to have experienced.

21 A I lost my wife, lost everything.  
22 Lost -- the Transit Authority plastered  
23 pictures of me throughout their compounds  
24 and buildings, criminalizing me,

28

PHILBERT GORRICK

1 A I haven't received any. I  
2 haven't went to go looking for any  
3 treatment. I just wail and weep what I  
4 have, what has been done to me. You know,  
5 what they done to me, what they continue  
6 to do to me. I don't think that's  
7 treatable.

8 Q I'm sorry, can you repeat that?

9 A I am not seeking any  
10 psychological help for this.

11 Q Have you taken any medications  
12 relating to your mental anguish and  
13 humiliation?

14 A No, ma'am.

15 Q In your complaint, paragraph  
16 seventeen, you assert you have suffered  
17 monetary damages. Please describe the  
18 monetary damages you allege you have  
19 suffered.

20 A My credit, my debts, my  
21 commitments to family and friends and  
22 relatives abroad, the loss of property, my  
23 car, repossession of my vehicle, the loss  
24 of my wife, the inability to pay my rent.

27

PHILBERT GORRICK

1 demonizing something that I have no  
2 control over. They have -- the Transit  
3 Authority has given pain to me.

4 Q To what do you refer, this  
5 plastering pictures of you?

6 A It started 2003 or 2004, the  
7 Transit Authority invited me over there to  
8 collect some -- some monies or checks or  
9 something to the effect. And I can't  
10 remember exactly what date or for what  
11 purpose, but I went over to one of the  
12 locations and the guard hut had a mug shot  
13 of me at the guard hut. They came down  
14 and paid me in the yard, paid me on the  
15 sidewalk of the building.

16 Q At what facility did this take  
17 place?

18 A At 1114 Atlantic Avenue.

19 Q Who gave you the pay?

20 A One Mr. Shaw, Mr. Shaw, and one  
21 -- she's MS12, I can't remember now.

22 Q Please describe any treatment  
23 you obtained for your alleged mental  
24 anguish and humiliation.

29

PHILBERT GORRICK

1 It's too numerous to mention, but -- it's  
2 a lot.

3 Q Well, let's go through the  
4 items. You've mentioned "loss of  
5 property." What property have you lost?

6 A I made deposits on items that I  
7 wanted, books, equipment for my business.  
8 When it came to pay, I couldn't pay  
9 because of my income. Couldn't pay my  
10 rent. I support relatives abroad;  
11 couldn't. Older relatives abroad.

12 Q And you mentioned repossession  
13 of a car. What car was repossessed?

14 A Repossessed a GMC Suburban.

15 Q When?

16 A That was repossessed in, I  
17 think, 2001.

18 Q Did you replace the GMC Suburban  
19 with another car following the --

20 A Subsequently, yes, I had to  
21 replace the car.

22 Q What did you replace it with?

23 A Another vehicle.

24 Q What was that vehicle?

8

<p style="text-align: right;">30</p> <p>1 PHILBERT GORRICK</p> <p>2 A A car. BMW.</p> <p>3 Q What model year was that BMW?</p> <p>4 A 2006.</p> <p>5 Q Had you replace that vehicle,</p> <p>6 that GMC Suburban, with another vehicle in</p> <p>7 the interim?</p> <p>8 A Yes.</p> <p>9 Q What vehicle did you replace it</p> <p>10 with in the interim?</p> <p>11 A That was a BMW, as well.</p> <p>12 (At this time, Mr. Rivera</p> <p>13 entered the room.)</p> <p>14 Q And what model year was that</p> <p>15 BMW?</p> <p>16 A 2002.</p> <p>17 Q And when did you obtain that</p> <p>18 vehicle?</p> <p>19 A 2004.</p> <p>20 Q After the repossession of your</p> <p>21 Suburban in 2001, did you own any other</p> <p>22 vehicle between then and obtaining the</p> <p>23 vehicle in 2004?</p> <p>24 A Yes. My business, yes. I owned</p> <p>25 one vehicle that was used specifically for</p>	<p style="text-align: right;">32</p> <p>1 PHILBERT GORRICK</p> <p>2 A Yes.</p> <p>3 Q By whom were you employed?</p> <p>4 A Bell Security Services, Exxon</p> <p>5 refinery in New Jersey, and the Daily</p> <p>6 News, concurrently.</p> <p>7 Q For what dates were you employed</p> <p>8 by Bell -- you were always employed by</p> <p>9 Bell Security or you were employed by</p> <p>10 three --</p> <p>11 A Two of them was concurrently and</p> <p>12 one was --</p> <p>13 Q So there were three employers,</p> <p>14 however?</p> <p>15 A Three employers, yes.</p> <p>16 Q So starting with the first, Bell</p> <p>17 Security, for what dates were you employed</p> <p>18 by them?</p> <p>19 A I can't remember. It's a long</p> <p>20 time.</p> <p>21 Q Were you employed by them</p> <p>22 immediately upon your immigration to the</p> <p>23 United States?</p> <p>24 A Yes, yes, definitely.</p> <p>25 Q And what year was that?</p>
<p style="text-align: right;">31</p> <p>1 PHILBERT GORRICK</p> <p>2 my business, but I couldn't keep it on the</p> <p>3 road. I had to take it off and put it</p> <p>4 away, that was it. That was -- I think it</p> <p>5 was a Cadillac.</p> <p>6 Q And what was the model year of</p> <p>7 that Cadillac?</p> <p>8 A That was a 2000.</p> <p>9 Q And when did you obtain the 2000</p> <p>10 Cadillac?</p> <p>11 A 1999.</p> <p>12 Q Prior to your employment by New</p> <p>13 York City Transit, were you employed?</p> <p>14 A I have a business -- always have</p> <p>15 a business. Prior to my employment, you</p> <p>16 said? Excuse me?</p> <p>17 Q Yes, prior to your employment in</p> <p>18 -- what is it, 1993?</p> <p>19 A '91.</p> <p>20 Q I'm sorry, 1991, right.</p> <p>21 A No, I started my business in</p> <p>22 1996.</p> <p>23 Q My question is prior to your</p> <p>24 employment by New York City Transit, were</p> <p>25 you employed?</p>	<p style="text-align: right;">33</p> <p>1 PHILBERT GORRICK</p> <p>2 A That was '89.</p> <p>3 Q And were you employed by Bell</p> <p>4 Security throughout the period prior to</p> <p>5 your employment by New York City Transit?</p> <p>6 A I can't remember. I mean not --</p> <p>7 I can't remember.</p> <p>8 Q What about Exxon?</p> <p>9 A Exxon up until the point I was</p> <p>10 employed by Transit Authority, yes.</p> <p>11 Q And what was the nature of your</p> <p>12 responsibility at Bell Security?</p> <p>13 A I was a security guard.</p> <p>14 Q What was the nature of your</p> <p>15 responsibility at Exxon?</p> <p>16 A Process operator.</p> <p>17 Q Explain that. What does that</p> <p>18 mean?</p> <p>19 A I made fuels.</p> <p>20 Q Say that again?</p> <p>21 A I made fuels.</p> <p>22 Q You were involved in the</p> <p>23 manufacturing process for fuels; is that</p> <p>24 what you mean?</p> <p>25 A Yes, ma'am.</p>



34

1 PHILBERT GORRICK  
 2 Q And what were your  
 3 responsibilities at the Daily News?  
 4 A Electrician.  
 5 Q I'm sorry?  
 6 A Electrician.  
 7 Q And what were the nature of your  
 8 assignments as an electrician?  
 9 A Effect the maintenance and the  
 10 repairs of the electrical equipment at the  
 11 plant.  
 12 Q Prior to your immigration, were  
 13 you employed in Guyana?  
 14 A Yes.  
 15 Q And what was the nature of your  
 16 employment in Guyana?  
 17 A I teach.  
 18 Q I'm sorry, you --  
 19 A Taught, yes.  
 20 Q You taught. What did you teach?  
 21 A Electrical principals, math.  
 22 Q And what sort of institution?  
 23 A Tertiary college.  
 24 Q And what does that mean?  
 25 A Okay, it's a college between

36

1 PHILBERT GORRICK  
 2 Q In what title?  
 3 A Helper, electrical helper.  
 4 Maintenance electrical helper C.  
 5 MS. GOETCHEUS: I would like to  
 6 mark for identification as Defendant's  
 7 Exhibit C documents dated July 1991,  
 8 Bates number D1593 through 1601.  
 9 [The documents were hereby  
 10 marked as Defendant's Exhibit C for  
 11 identification, as of this date.]  
 12 Q Do you recognize these documents  
 13 (handing)?  
 14 A (Perusing.) Yes.  
 15 Q What do you recognize them to  
 16 be?  
 17 A It seems to be my employment  
 18 records.  
 19 Q Is this your handwriting and  
 20 your signatures on the pages numbered 15  
 21 -- well, 1593, your handwriting, and the  
 22 signature on 1594, 1596, 1597, 1598, 1599,  
 23 1600 and 1601?  
 24 A (Perusing.) Yes.  
 25 Q Turning to 1594, there is an

35

1 PHILBERT GORRICK  
 2 high school and university.  
 3 Q For what dates were you teaching  
 4 electrical principals and math?  
 5 A 1980 to 1985.  
 6 Q And what did you do from -- were  
 7 you employed from 1985 to your immigration  
 8 in 1989?  
 9 A Sometime during that period, I  
 10 got a full scholarship for the university  
 11 of Guyana, so --  
 12 Q For what period?  
 13 A From '85 to the time I got here.  
 14 Q So you were a full-time student  
 15 from 1985 to 1989?  
 16 A Yes.  
 17 Q Is that your testimony?  
 18 A Yes.  
 19 Q Do you have a current resume?  
 20 A No.  
 21 Q Do you have any resume?  
 22 A No.  
 23 Q When were you hired at the  
 24 Transit Authority?  
 25 A July 29, 1981.

37

1 PHILBERT GORRICK  
 2 entry saying that you -- your education  
 3 included attendance at the New York  
 4 Institute of Technology; is that correct?  
 5 A Yes.  
 6 Q When did you attend the New York  
 7 Institute of Technology?  
 8 A I think it was '91. I went for  
 9 one semester.  
 10 Q And what did you take at New  
 11 York Institute of Technology?  
 12 A I was doing -- I was trying to  
 13 -- I was trying to complete the degree  
 14 that I started in Guyana, electrical  
 15 engineering.  
 16 Q And how far did you proceed in  
 17 that?  
 18 A Because of constraints, I left  
 19 after -- I think it was one semester, two  
 20 semesters.  
 21 Q How far from a degree were you?  
 22 A Not very far.  
 23 MS. GOETCHEUS: I would like to  
 24 mark for identification as Defendant's  
 25 Exhibit D -- why don't we do two at

10

<p style="text-align: right;">38</p> <p>1 PHILBERT GORRICK</p> <p>2 once? Two job descriptions for the</p> <p>3 titles of maintainer's helper group C,</p> <p>4 Bates stamped D1152, and for the title</p> <p>5 of light maintainer, Bates stamped</p> <p>6 1150 through 1151.</p> <p>7 [The documents were hereby</p> <p>8 marked as Defendant's Exhibits D for</p> <p>9 identification, as of this date.]</p> <p>10 Q Turning first to the job</p> <p>11 description for maintainer's helper group</p> <p>12 C, Bates stamped D1152, do you recognize</p> <p>13 this document (handing)?</p> <p>14 A (Perusing.) Yes.</p> <p>15 Q What do you recognize it to be?</p> <p>16 A Responsibilities and</p> <p>17 qualifications requirement.</p> <p>18 Q Do the duties and</p> <p>19 responsibilities correspond to those you</p> <p>20 performed while in that title?</p> <p>21 A Can you repeat that question?</p> <p>22 Q Do the duties and</p> <p>23 responsibilities correspond to those you</p> <p>24 performed while in that title?</p> <p>25 A No.</p>	<p style="text-align: right;">40</p> <p>1 PHILBERT GORRICK</p> <p>2 City Transit Authority is authorized by</p> <p>3 law" -- I don't know if that was done</p> <p>4 under law, but I know that on the job that</p> <p>5 wasn't quite really the function, these</p> <p>6 descriptions.</p> <p>7 Q What other jobs did you perform?</p> <p>8 A Information technologies, duties</p> <p>9 outside of my considered duties and</p> <p>10 responsibilities, they were done anyhow.</p> <p>11 Q While you were a maintainer's</p> <p>12 helper group C, you were doing information</p> <p>13 technology work?</p> <p>14 A Yes.</p> <p>15 Q In what section were you doing</p> <p>16 that?</p> <p>17 A In the indicator section at</p> <p>18 Locust Avenue.</p> <p>19 Q Locust Avenue is where?</p> <p>20 A Locust Avenue is the Bronx.</p> <p>21 Q Were you subsequently promoted</p> <p>22 to the title of light maintainer?</p> <p>23 A Yes; I took that examination</p> <p>24 with the department.</p> <p>25 Q When did that promotion occur?</p>
<p style="text-align: right;">39</p> <p>1 PHILBERT GORRICK</p> <p>2 Q And in what way do they not</p> <p>3 correspond?</p> <p>4 A A number of these things that</p> <p>5 are listed here as a requirement doesn't</p> <p>6 exist in New York City Transit system.</p> <p>7 Q Do you mean requirements or the</p> <p>8 duties and responsibilities?</p> <p>9 A Duties and responsibilities.</p> <p>10 Q Which ones do not exist?</p> <p>11 A "Maintenance, installation,</p> <p>12 inspection, testing, alteration, repair</p> <p>13 and operation of the electrical equipment,</p> <p>14 including" -- and from "including" doesn't</p> <p>15 exist. "Including Mercury arc rectifiers,</p> <p>16 rotary converters, high tension and low</p> <p>17 tension switch gears," never did that.</p> <p>18 Q But you did do automatic relay</p> <p>19 panels and circuits?</p> <p>20 A No, never did. "Power cables,"</p> <p>21 yes; "power line," yes; "enclosures and</p> <p>22 buildings under live and hazardous</p> <p>23 conditions," not quite sure what that</p> <p>24 means; but "keep necessary records," yes;</p> <p>25 and "perform other duties as the New York</p>	<p style="text-align: right;">41</p> <p>1 PHILBERT GORRICK</p> <p>2 A I can't remember. Two years or</p> <p>3 three years after the position of helper.</p> <p>4 Two or three years.</p> <p>5 MS. GOETCHEUS: I would like to</p> <p>6 mark for identification as</p> <p>7 Defendants's Exhibit E documents dated</p> <p>8 August and September 1993, Bates</p> <p>9 numbered D977 through 89.</p> <p>10 [The documents were hereby</p> <p>11 marked as Defendant's Exhibit E for</p> <p>12 identification, as of this date.]</p> <p>13 Q Do you recognize these documents</p> <p>14 (handing)?</p> <p>15 A (Perusing.) Yes.</p> <p>16 Q What do you recognize them to</p> <p>17 be?</p> <p>18 A Appointment notices, history of</p> <p>19 my title changes.</p> <p>20 Q Is this your handwriting and</p> <p>21 your signatures on the pages numbered</p> <p>22 D980, 981, 98 -- oh, I'm sorry, these</p> <p>23 don't seem to be continuous. I'm sorry,</p> <p>24 they're not continuous. Let's get the</p> <p>25 numbers into the record as they appear</p>

42

1 PHILBERT GORRICK  
 2 here. It's D977 -- I don't know how this  
 3 happened, D980, then D981, then D978 --  
 4 they're all out of order. 979, 982, 983,  
 5 984, 985, 986, 987, 988 and 989.  
 6 MR. LICHEN: So -- sorry.  
 7 MS. GOETCHEUS: I guess  
 8 they're -- they actually -- the  
 9 complete series, I guess, is here. It  
 10 just wasn't collated in the proper  
 11 order.  
 12 MR. LICHEN: Right.  
 13 MS. GOETCHEUS: Sorry about  
 14 that.  
 15 Q However, looking at -- so let's  
 16 go page by page. 980, is that your  
 17 handwriting and your signature, the second  
 18 page of the --  
 19 A This one (indicating)?  
 20 Q If you'll turn to the second  
 21 page that is marked 980 --  
 22 A Oh, yes, yes.  
 23 Q -- is that your handwriting and  
 24 your signature?  
 25 A It is.

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1 PHILBERT GORRICK  
 2 Q And on page 981, is that your  
 3 signature?  
 4 A Yes, it is.  
 5 Q And on 979, is that your  
 6 handwriting?  
 7 A Yes.  
 8 MR. LICHEN: No, this is 979  
 9 (indicating).  
 10 A Oh. Yes, it is.  
 11 Q So then on 979, is that your  
 12 handwriting?  
 13 A 979? Yes, it is. 978, part of  
 14 this is my handwriting and part of it is  
 15 not.  
 16 Q Which part of it is your  
 17 handwriting?  
 18 A Upper portion, above "Leave item  
 19 below blank."  
 20 Q Okay, and 979, that's your  
 21 handwriting?  
 22 A 979? Yes, it is.  
 23 Q And on 985, that's your  
 24 signature?  
 25 A Yes, it is.

44

1 PHILBERT GORRICK  
 2 MR. LICHEN: Wait, there's two  
 3 signatures here.  
 4 A Well, "Signature of employee."  
 5 MS. GOETCHEUS: Well, the  
 6 signature that is not William Meany  
 7 (ph). I'm assuming Mr. Gorrick's  
 8 signature is Mr. Gorrick's signature.  
 9 Q 988, is that your signature?  
 10 A No.  
 11 Q 989, is that your signature?  
 12 A It is.  
 13 Q Were you subsequently promoted  
 14 to the title of power cable maintainer?  
 15 A Yes.  
 16 Q When did that occur?  
 17 A I can't remember, but if the  
 18 dates are here I'm sure it is -- I can't  
 19 remember.  
 20 Q Was it shortly after you were  
 21 promoted to --  
 22 A Light maintainer.  
 23 Q -- light maintainer?  
 24 A Yes.  
 25 MS. GOETCHEUS: I would like to

45

1 PHILBERT GORRICK  
 2 mark for identification as Defendant's  
 3 Exhibit F a job description for the  
 4 title power cable maintainer, Bates  
 5 stamped D2976 through 78.  
 6 [The document was hereby marked  
 7 as Defendant's Exhibit F for  
 8 identification, as of this date.]  
 9 Q Do you recognize this document  
 10 (handing)?  
 11 A (Perusing.) Yes.  
 12 Q What do you recognize it to be?  
 13 A This is general description of  
 14 my duties and responsibilities as a power  
 15 cable maintainer.  
 16 Q Do the duties and  
 17 responsibilities correspond to those that  
 18 you performed while in that title?  
 19 A Yes.  
 20 Q To what physical locations were  
 21 you assigned during your employment at  
 22 Transit? Reporting location, that is to  
 23 say.  
 24 A As a power cable maintainer or  
 25 as generally?

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<p style="text-align: right;">46</p> <p>1 PHILBERT GORRICK</p> <p>2 Q During -- let's go through your</p> <p>3 entire employment at Transit. When you</p> <p>4 were first hired, where were you assigned?</p> <p>5 A When I was first hired, I was</p> <p>6 sent -- I would be assigned. I was</p> <p>7 assigned to P.S. 240 for orientation</p> <p>8 training.</p> <p>9 Q And then where were you</p> <p>10 assigned?</p> <p>11 A And then back, then, to 1114</p> <p>12 Atlantic Avenue.</p> <p>13 Q And for how long were you</p> <p>14 assigned at 1114 Atlantic Avenue?</p> <p>15 A A week.</p> <p>16 Q And then where were you</p> <p>17 assigned?</p> <p>18 A 100 Locust Avenue in the Bronx.</p> <p>19 Q And when were you assigned</p> <p>20 there?</p> <p>21 A In '91. I can't remember the</p> <p>22 dates, but it was '91.</p> <p>23 Q Right, and until when?</p> <p>24 A Until 1990 -- I think '96. '95,</p> <p>25 '96.</p>	<p style="text-align: right;">48</p> <p>1 PHILBERT GORRICK</p> <p>2 completing training?</p> <p>3 A Yeah. I completed training,</p> <p>4 went to 1114 Atlantic Avenue and then we</p> <p>5 all got -- based on seniority, you're</p> <p>6 assigned to where they want you to work.</p> <p>7 Q And thereafter your assignments</p> <p>8 were picked assignments?</p> <p>9 A Thereafter some were picked and</p> <p>10 some were given to me.</p> <p>11 Q Which ones were not picked?</p> <p>12 A Going back to 1114 Atlantic</p> <p>13 Avenue.</p> <p>14 Q When?</p> <p>15 A In '95 or '96, I think it was.</p> <p>16 Q And were there any others that</p> <p>17 were not picked?</p> <p>18 A Just for the record, let me</p> <p>19 clarify this. When you say "picked for an</p> <p>20 assignment," because when you get your</p> <p>21 site, whatever your assignment is that</p> <p>22 site, because I'm talking about what the</p> <p>23 place is, what shifts, and then in those</p> <p>24 shifts there are also roles that you play.</p> <p>25 So can you either be assigned or picked</p>
<p style="text-align: right;">47</p> <p>1 PHILBERT GORRICK</p> <p>2 Q And then where were you</p> <p>3 assigned?</p> <p>4 A To 1114 Atlantic Avenue.</p> <p>5 Q And how long were you assigned</p> <p>6 to 1114 Atlantic Avenue?</p> <p>7 A From 1996 to 1991 -- 1999.</p> <p>8 Q And then where were you</p> <p>9 assigned?</p> <p>10 A Back to 100 Locust Avenue.</p> <p>11 Q And for how long was that?</p> <p>12 A Less than a year.</p> <p>13 Q And then where were you</p> <p>14 assigned?</p> <p>15 A Back to 1114 Atlantic Avenue,</p> <p>16 nights.</p> <p>17 Q Did you pick your assignments?</p> <p>18 A The assignments in some</p> <p>19 instances were picked. In some they</p> <p>20 weren't; I was assigned, I was sent there.</p> <p>21 Q Which assignments were not</p> <p>22 picked assignments?</p> <p>23 A The first move from Atlantic</p> <p>24 Avenue to Locust Avenue in '91.</p> <p>25 Q So your initial assignment upon</p>	<p style="text-align: right;">49</p> <p>1 PHILBERT GORRICK</p> <p>2 into specific job operations at the sites.</p> <p>3 So you can either go in the site and say</p> <p>4 "I want to be in the material equipment</p> <p>5 room," "I want to be in the drawing</p> <p>6 office," or you might be assigned to</p> <p>7 drawing office based on your seniority and</p> <p>8 all these levels. So to say "assigned," I</p> <p>9 don't quite understand.</p> <p>10 Q All I'm asking about is the</p> <p>11 locations.</p> <p>12 A Okay, well, the locations when I</p> <p>13 went back to Locust Avenue.</p> <p>14 Q At this point, I don't know what</p> <p>15 you're saying. When you went back to</p> <p>16 Locust Avenue, what year and what are you</p> <p>17 talking about? When you went back to</p> <p>18 Locust Avenue, did you pick it or did you</p> <p>19 not pick it?</p> <p>20 A I did not pick that.</p> <p>21 Q You did not pick it?</p> <p>22 A Going back.</p> <p>23 Q In 1999?</p> <p>24 A In '99, yes.</p> <p>25 Q Did you pick returning to</p>

50

1 PHILBERT GORRICK  
 2 Atlantic Avenue?  
 3 A Yes.  
 4 Q Some time after that return to  
 5 Locust, you picked to come back to  
 6 Atlantic Avenue?  
 7 A To come back, right. Yes, that  
 8 is correct.  
 9 MS. GOETCHEUS: I would like to  
 10 mark for identification as Defendant's  
 11 Exhibit G a document titled  
 12 Plaintiff's -- well, there's a cover  
 13 letter dated September 21, 2007  
 14 addressed to me from Stuart Lichten  
 15 and attached to that is Plaintiff's  
 16 Response to Defendant's First Set of  
 17 Interrogatories and Request For  
 18 Production of Documents.  
 19 [The documents were hereby  
 20 marked as Defendant's Exhibit G for  
 21 identification, as of this date.]  
 22 Q Do you recognize this document  
 23 (handing)?  
 24 A (Perusing.) Yes.  
 25 Q Did you assist in its

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1 PHILBERT GORRICK  
 2 good faith as required by the arbitration.  
 3 Q There were three arbitrations.  
 4 Which arbitration do you refer to?  
 5 A The first arbitration.  
 6 Q In what time period are you  
 7 referring?  
 8 A The period shortly thereafter  
 9 ending of the arbitration process, of that  
 10 arbitration process.  
 11 Q 2002-2003; is that correct?  
 12 A I don't have the dates in front  
 13 of me.  
 14 Q What, in particular, do you  
 15 allege was "not operating in good faith"?  
 16 A Well, we were directed -- the  
 17 arbitration directed us to follow certain  
 18 procedures and those procedures weren't  
 19 adhered to. Mr. Rivera choose to only  
 20 listen to what he think he needs to do and  
 21 not listen to -- so as a result --  
 22 Q Could you please be specific?  
 23 A He failed to operate in good  
 24 faith, failed to provide me with shoes  
 25 with which I could do my job.

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1 PHILBERT GORRICK  
 2 preparation?  
 3 A Information was submitted from  
 4 me and I provided information.  
 5 Q Is this your signature on the  
 6 verification on the last page?  
 7 A Yes, it is.  
 8 Q Are these responses true to the  
 9 best of your knowledge?  
 10 A Yes.  
 11 Q In your response to  
 12 Interrogatory No. 1, in response to the  
 13 request that you "identify each and every  
 14 person who, in your opinion, was  
 15 responsible in any way for any  
 16 discriminatory or allegedly wrongful act,"  
 17 you identify a number of people.  
 18 I would like you to identify the  
 19 position held or function performed and  
 20 describe the nature of the allegedly  
 21 discriminatory or wrongful act for each of  
 22 the persons you so identified. The first  
 23 person you so identified is Gustave  
 24 Rivera.  
 25 A Mr. Rivera did not operate in

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1 PHILBERT GORRICK  
 2 Q It was your understanding that  
 3 by the arbitrator's direction, he was  
 4 required to provide you shoes?  
 5 A If it was deemed I could not  
 6 wear the shoes --  
 7 Q I'm sorry, could you slow down?  
 8 A Mr. Rivera was instructed to  
 9 cooperate in the process of acquiring  
 10 shoes if it was deemed by the independent  
 11 physician that I could wear shoes, of  
 12 which that was never the case, and  
 13 Mr. Rivera's position was he was adamant  
 14 that I should get shoes and I should be  
 15 wearing the specific shoes that the  
 16 Transit Authority wanted me to wear.  
 17 Q It is your position that the  
 18 consultant physician found that you could  
 19 not wear shoes in 2002?  
 20 A Wear the type of shoes that they  
 21 were asking me to wear, that the Transit  
 22 Authority is asking me to wear.  
 23 Q The next name is Cassandra  
 24 Tillman (ph). Please describe who is  
 25 Cassandra Tillman and what discriminatory

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<p>54</p> <p>1 PHILBERT GORRICK</p> <p>2 or wrongful act she performed.</p> <p>3 A Miss Tillman had knowledge to</p> <p>4 the previous stipulation and she choose to</p> <p>5 ignore the stipulation.</p> <p>6 Q What stipulation are you</p> <p>7 referring to?</p> <p>8 A I'm referring to the stipulation</p> <p>9 that was made in May of 2000.</p> <p>10 Q And in what way did she</p> <p>11 disregard that stipulation?</p> <p>12 A By refusing to ignore the</p> <p>13 contents of the stipulation. The</p> <p>14 condition the stipulation was formed, she</p> <p>15 refused to acknowledge that.</p> <p>16 Q When did she do this?</p> <p>17 A I can't remember.</p> <p>18 Q Was it prior to the first</p> <p>19 arbitration?</p> <p>20 A Yes, in one of the steps prior</p> <p>21 to arbitration.</p> <p>22 Q Were there any later acts by Ms.</p> <p>23 Tillman that you allege are discriminatory</p> <p>24 or wrongful?</p> <p>25 A Not that I can remember at this</p>	<p>56</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Vincent Valenti?</p> <p>3 A He is the -- he was the</p> <p>4 superintendent at the 1114 Atlantic</p> <p>5 Avenue. He is the person who's</p> <p>6 responsible for putting me out of service</p> <p>7 on the 9th of October despite the</p> <p>8 stipulations.</p> <p>9 Q Despite the stipulation for May</p> <p>10 of 2000?</p> <p>11 A For May of 2000.</p> <p>12 Q Is there any other act that you</p> <p>13 allege --</p> <p>14 A No.</p> <p>15 Q -- against him?</p> <p>16 A No.</p> <p>17 Q Norman Blumstein?</p> <p>18 A I can't remember him.</p> <p>19 Q Who is he?</p> <p>20 A I don't -- I -- he might have</p> <p>21 been a -- I'm not quite sure who he is. I</p> <p>22 think he was -- I'm not quite sure.</p> <p>23 Q Do you have any idea where he</p> <p>24 worked?</p> <p>25 A He worked at the cable section.</p>
<p>55</p> <p>1 PHILBERT GORRICK</p> <p>2 point in time. Maybe. I'm not quite</p> <p>3 sure.</p> <p>4 Q Well, this is your opportunity</p> <p>5 to provide that information, so if you</p> <p>6 have any other, please provide it.</p> <p>7 A I can't remember.</p> <p>8 Q Did you have any interaction</p> <p>9 with Ms. Tillman thereafter?</p> <p>10 A In the second arbitration.</p> <p>11 Q When?</p> <p>12 A When they failed to contact me</p> <p>13 properly on the subsequent hearing.</p> <p>14 Q And was that in 2003?</p> <p>15 A I think it was. I'm not quite</p> <p>16 sure.</p> <p>17 Q By "the second arbitration," you</p> <p>18 mean the abandonment -- the arbitration</p> <p>19 concerning abandonment?</p> <p>20 A Yes.</p> <p>21 Q Were there any other instances</p> <p>22 in which you allege that Cassandra Tillman</p> <p>23 acted in a discriminatory or wrongful</p> <p>24 manner towards you?</p> <p>25 A Not that I can remember, no.</p>	<p>57</p> <p>1 PHILBERT GORRICK</p> <p>2 Q He was a Transit Authority</p> <p>3 employee?</p> <p>4 A Yes.</p> <p>5 Q Ralph Dill?</p> <p>6 A This person's name appeared in a</p> <p>7 letter. I can't remember what letter it</p> <p>8 is.</p> <p>9 Q Do you recall what time period</p> <p>10 the letter is from?</p> <p>11 A No.</p> <p>12 Q Was it in connection with the</p> <p>13 events of 2000?</p> <p>14 A Yes.</p> <p>15 Q Did Ralph Dill have any</p> <p>16 involvement in any later -- any events</p> <p>17 subsequent to the 2000 events?</p> <p>18 A No. I don't think so, no.</p> <p>19 Q Patrick McGreal?</p> <p>20 A Mr. McGreal was the director of</p> <p>21 operations and we made a -- together, the</p> <p>22 union on my side with me and him</p> <p>23 representing the Authority, made an</p> <p>24 agreement, a stipulation agreement, after</p> <p>25 I produced my medical lines, that I</p>

<p style="text-align: right;">58</p> <p>1 PHILBERT GORRICK</p> <p>2 couldn't wear those shoes. And then in</p> <p>3 October, in the stipulation, the charges</p> <p>4 were withdrawn and I should go back to</p> <p>5 work, and I went back to work full duty</p> <p>6 and I should wear my own shoes. At the</p> <p>7 same time, he ask me not to pursue any</p> <p>8 monetary compensation as a result of the</p> <p>9 shoes that Transit issued to me on</p> <p>10 September 9th that injured me. Something</p> <p>11 that I should not have done, but he had me</p> <p>12 do that in a good faith effort to settle</p> <p>13 this matter. And on October 9th, I was</p> <p>14 placed out of service despite that</p> <p>15 stipulation.</p> <p>16 Q Do you allege that Mr. McGreal</p> <p>17 took any other discriminatory or allegedly</p> <p>18 wrongful act other than his involvement in</p> <p>19 your being put out of service in October</p> <p>20 of 2000?</p> <p>21 A Mr. McGreal's involvement in</p> <p>22 matters that -- we had a hearing in May of</p> <p>23 2000 and a stipulation was made between</p> <p>24 McGreal and myself and the union that the</p> <p>25 issue of shoes will be withdrawn, there</p>	<p style="text-align: right;">60</p> <p>1 PHILBERT GORRICK</p> <p>2 A No. He was general</p> <p>3 superintendent.</p> <p>4 Q And the "no" is answering the</p> <p>5 question of no allegations --</p> <p>6 A Subsequent to October 2000.</p> <p>7 Q -- subsequent to October 2000?</p> <p>8 A Yeah.</p> <p>9 Q J. Lee?</p> <p>10 A James Lee, MSII then, placed me</p> <p>11 out of service as well. He was in the</p> <p>12 office with Mr. Valenti.</p> <p>13 Q So you have no allegations</p> <p>14 concerning Mr. Lee subsequent to October</p> <p>15 of 2000?</p> <p>16 A No.</p> <p>17 Q O. Turner?</p> <p>18 A My supervisor. He witnessed</p> <p>19 these proceedings.</p> <p>20 Q Do you have any allegations of</p> <p>21 discriminatory or wrongful conduct by --</p> <p>22 well, what allegation of discriminatory or</p> <p>23 wrongful conduct by Mr. Turner do you</p> <p>24 make?</p> <p>25 A That he -- he was a part of the</p>
<p style="text-align: right;">59</p> <p>1 PHILBERT GORRICK</p> <p>2 will be no shoe charges brought against</p> <p>3 me, I should continue wearing the same</p> <p>4 shoes. And a stipulation was signed by</p> <p>5 both the Transit Authority -- Mr. McGreal</p> <p>6 signed it on behalf of the Transit</p> <p>7 Authority and I signed it with the union</p> <p>8 and they told me that was it -- I'll be</p> <p>9 back to full duty. On October 9th --</p> <p>10 Q My question is subsequent to</p> <p>11 October of 2000, do you allege any</p> <p>12 discriminatory or wrongful act by</p> <p>13 Mr. McGreal?</p> <p>14 A Not that I -- not personally,</p> <p>15 no.</p> <p>16 Q Kevin Fonseca is the next name,</p> <p>17 I believe. Is that correct?</p> <p>18 A Yes. Superintendent in the</p> <p>19 cable section. He followed instructions</p> <p>20 of Mr. McGreal.</p> <p>21 Q Do you allege any act by Kevin</p> <p>22 Fonseca subsequent to the events of</p> <p>23 October 2000?</p> <p>24 A No.</p> <p>25 Q John Campbell?</p>	<p style="text-align: right;">61</p> <p>1 PHILBERT GORRICK</p> <p>2 process. He followed the instruction of</p> <p>3 Mr. McGreal.</p> <p>4 Q In October of 2000?</p> <p>5 A In October 2000.</p> <p>6 Q Do you allege any act by</p> <p>7 Mr. Turner --</p> <p>8 A No.</p> <p>9 Q -- subsequent to the events of</p> <p>10 October 2000?</p> <p>11 A No.</p> <p>12 Q Joseph Rosas (ph)?</p> <p>13 A Rosas, yes, supervisor.</p> <p>14 Q And what wrongful act do you</p> <p>15 allege against Mr. Rosas?</p> <p>16 A He -- same as Mr. Turner;</p> <p>17 supervisor.</p> <p>18 Q And do you allege any act by</p> <p>19 Mr. Rosas subsequent to the events of</p> <p>20 October 2000?</p> <p>21 A No.</p> <p>22 Q Richard Gayle?</p> <p>23 A Richard Gayle, he worked in</p> <p>24 Mr. -- I can't remember his title, what</p> <p>25 his title was, but he worked in the office</p>

<p style="text-align: right;">62</p> <p>1 PHILBERT GORRICK</p> <p>2 of Mr. Gus Rivera. Mr. Gayle was asked</p> <p>3 after -- I saw him on the 9th of October</p> <p>4 and he asked -- he asked about as in</p> <p>5 regards to my shoes, and he was aware of</p> <p>6 Mr. Patrick McGreal's letter and</p> <p>7 information about the stipulation and he</p> <p>8 acted based on the instruction of</p> <p>9 Mr. McGreal.</p> <p>10 Q And do you allege any act by</p> <p>11 Mr. Gayle subsequent to that inspection in</p> <p>12 October 2000?</p> <p>13 A No.</p> <p>14 Q Michelle Alexander (ph)?</p> <p>15 A Ms. Alexander was aware of Dr.</p> <p>16 Svahn's determination, independent medical</p> <p>17 consultant, and --</p> <p>18 Q By "Dr. Svahn's determinations,"</p> <p>19 which of Dr. Svahn's determinations are</p> <p>20 you referring to?</p> <p>21 A The first determination.</p> <p>22 Q And who is Michelle Alexander?</p> <p>23 A I understand she is the head of</p> <p>24 the medical apartment, Medical Assessment</p> <p>25 Center.</p>	<p style="text-align: right;">64</p> <p>1 PHILBERT GORRICK</p> <p>2 A I know a medical doctor, but I</p> <p>3 don't know what role he played. Of course</p> <p>4 he's following his instructions of his</p> <p>5 supervisor, who is Dr. Michelle Alexander.</p> <p>6 Q Do you allege that Dr. Alexander</p> <p>7 was involved in any actions subsequent to</p> <p>8 the grievance -- to the events that led to</p> <p>9 the grievance that was heard in the third</p> <p>10 arbitration?</p> <p>11 A Can you -- I'm kind of -- I lost</p> <p>12 you.</p> <p>13 Q Well, let's do a little</p> <p>14 background here.</p> <p>15 A Okay.</p> <p>16 Q I think you've already testified</p> <p>17 there were three arbitrations in</p> <p>18 connection with grievances related to</p> <p>19 shoes; is that correct?</p> <p>20 A Two.</p> <p>21 Q Well, two plus an abandonment.</p> <p>22 Two substantive and one abandonment; is</p> <p>23 that correct?</p> <p>24 A Yes, that's correct.</p> <p>25 Q So there's the first shoe</p>
<p style="text-align: right;">63</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Dr. Svahn's first determination</p> <p>3 was in May of 2002; is that correct?</p> <p>4 A Yes.</p> <p>5 Q Do you allege any act by Dr.</p> <p>6 Alexander subsequent to a determination at</p> <p>7 the end of 2002?</p> <p>8 A That Ms. Alexander -- Dr.</p> <p>9 Alexander, without my consent, went back</p> <p>10 to Dr. Svahn for information without my --</p> <p>11 for my medical information without my</p> <p>12 knowledge.</p> <p>13 Q When?</p> <p>14 A Subsequent to 2000, to the first</p> <p>15 determination.</p> <p>16 Q Was that in 2002?</p> <p>17 A I don't know. I know it was</p> <p>18 subsequent.</p> <p>19 Q Was it prior to your being</p> <p>20 disciplined in the beginning of 2003?</p> <p>21 A I don't quite understand that</p> <p>22 question.</p> <p>23 Q All right, let's put it aside</p> <p>24 until we look at the documents, then.</p> <p>25 Edward Eisenberg (ph)?</p>	<p style="text-align: right;">65</p> <p>1 PHILBERT GORRICK</p> <p>2 arbitration, substantive, correct?</p> <p>3 A Yes.</p> <p>4 Q Which resulted in the 2002; is</p> <p>5 that correct?</p> <p>6 A Yes.</p> <p>7 Q There was the second</p> <p>8 arbitration, which initially there was an</p> <p>9 abandonment arbitration; is that correct?</p> <p>10 A The second one was based solely</p> <p>11 on abandonment arbitration, that was it.</p> <p>12 I don't see how that was -- I can't follow</p> <p>13 you.</p> <p>14 Q Well, the arbitration that</p> <p>15 resulted in a decision in 2006, what do</p> <p>16 you call it?</p> <p>17 A Yeah, but it hasn't to do with</p> <p>18 abandonment. That was a completely</p> <p>19 different process.</p> <p>20 Q But what grievance was</p> <p>21 abandoned, was allegedly abandoned?</p> <p>22 A Okay, there was a process where</p> <p>23 they needed to contact me to reopen the</p> <p>24 case --</p> <p>25 Q I'm not asking you for the</p>



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1 PHILBERT GORRICK  
 2 substance of it. I'm asking you what  
 3 grievance was deemed abandoned?  
 4 A The second grievance, I don't  
 5 know --  
 6 Q Right. The second substantive  
 7 shoe grievance, correct.  
 8 A No.  
 9 Q What grievance?  
 10 A To date, I don't know what the  
 11 grievance is about. I know they failed to  
 12 contact me.  
 13 Q But at that abandonment  
 14 arbitration, was the grievance restored?  
 15 A If I -- okay, if I do not  
 16 understand what is it that you're  
 17 asking -- that we are getting involved in,  
 18 because the simple reason, if I'm not  
 19 quite clear what the grievance was  
 20 initially, I don't know what is there to  
 21 restore. And my understanding of the  
 22 grievance is that the Transit Authority  
 23 couldn't contact me for some procedures  
 24 they want to have done with me or  
 25 something to that effect, and they

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1 PHILBERT GORRICK  
 2 consider me -- the grievance abandoned and  
 3 they filed me processed.  
 4 Q And then what happened?  
 5 A Then what happened, I think I  
 6 reported back to Ms. Cassandra for a  
 7 hearing as to what I'll be doing next and  
 8 that was it. I don't understand quite  
 9 understand --  
 10 Q And what led to --  
 11 A -- if that was a grievance.  
 12 Q What led to the arbitration that  
 13 resulted in a decision in 2006?  
 14 A The Transit Authority went ahead  
 15 and reopened the case, since based on  
 16 Mr. Gus Rivera's finding that it was  
 17 incorporated into the case, you weren't  
 18 complying with the previous arbitration  
 19 ruling. I don't know about that.  
 20 Q The determination that you  
 21 weren't complying with the 2002 ruling,  
 22 when was that determination made?  
 23 MR. LICHEN: Determination by  
 24 whom?  
 25 MS. GOETCHEUS: He's just said

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1 PHILBERT GORRICK  
 2 that it was a determination by Gus  
 3 Rivera --  
 4 MR. LICHEN: Okay.  
 5 MS. GOETCHEUS: -- that he was  
 6 not complying with the 2002  
 7 arbitration award.  
 8 Q When was that determination  
 9 made?  
 10 A That was a year -- a year after,  
 11 almost a year after. I can't remember the  
 12 dates.  
 13 Q So 2003?  
 14 A Maybe 2004. It might have been  
 15 two years. Because this is a seven-year  
 16 process, so I can't quite -- I don't have  
 17 dates, I can't have dates.  
 18 Q What I want you to answer is are  
 19 you alleging that Dr. Alexander performed  
 20 any allegedly discriminatory or wrongful  
 21 act subsequent to that determination that  
 22 you're testifying about, that  
 23 determination that you had not complied  
 24 with the 2002 arbitration?  
 25 A I can't remember. I can't

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1 PHILBERT GORRICK  
 2 remember. Truthfully, I can't.  
 3 Q What is the most recent act by  
 4 Dr. Alexander that you allege was  
 5 discriminatory?  
 6 A That Ms. -- that Dr. Alexander  
 7 went back to the independent vascular  
 8 specialist and solicited information from  
 9 her without my involvement.  
 10 Q That's the last act by Dr.  
 11 Alexander?  
 12 A That I'm aware of. I don't know  
 13 what else she may have done.  
 14 Q Jean Cox (ph)?  
 15 A Her name appeared on a document.  
 16 I don't know what that is.  
 17 MS. GOETCHEUS: I would like to  
 18 mark for identification as Defendant's  
 19 Exhibit H documents Bates numbered  
 20 D487, 488 and 489. The first is an  
 21 MOW bulletin numbered 98-23, Mini  
 22 Stand Down, the second is a  
 23 Maintenance of Way bulletin, 98-21A.  
 24 [The documents were hereby  
 25 marked as Defendant's Exhibit H for

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<p style="text-align: right;">70</p> <p>1 PHILBERT GORRICK</p> <p>2 identification, as of this date.]</p> <p>3 Q Have you seen these documents</p> <p>4 before (handing)?</p> <p>5 A (Perusing.) No.</p> <p>6 Q Are you familiar with the</p> <p>7 concept of mini stand downs?</p> <p>8 A Yes.</p> <p>9 Q And what is the purpose of a</p> <p>10 mini stand down?</p> <p>11 A At safety meetings, they discuss</p> <p>12 potential hazardous conditions in the</p> <p>13 track work and how we can go along solving</p> <p>14 these safety issues.</p> <p>15 Q Are you familiar with the</p> <p>16 concept of personal protective equipment?</p> <p>17 A Yes.</p> <p>18 Q What is the purpose of personal</p> <p>19 protective equipment?</p> <p>20 A To protect you.</p> <p>21 Q To protect you from what?</p> <p>22 A From hazards, potential hazards</p> <p>23 that may exist around the -- in your work</p> <p>24 area.</p> <p>25 Q Turning to the document 98-21,</p>	<p style="text-align: right;">72</p> <p>1 PHILBERT GORRICK</p> <p>2 Work shoes, I had, which I purchased.</p> <p>3 Q So you falsely certified at this</p> <p>4 time that you had these boots?</p> <p>5 A I have boots, but not issued</p> <p>6 boots. These boots were never -- Transit</p> <p>7 Authority never issued boots to us, so</p> <p>8 these boots -- this was -- boots were not</p> <p>9 issued to me. First time I got boots</p> <p>10 issued by Transit Authority is nine years</p> <p>11 after I was hired. So for them to say</p> <p>12 that I was issued boots, they signed I was</p> <p>13 issued boots. They were never issued to</p> <p>14 me.</p> <p>15 Q But you signed this, correct?</p> <p>16 A Oh, yes. I have boots. I have</p> <p>17 work boots. I don't know what these</p> <p>18 safety-issued boots are.</p> <p>19 Q But you signed it?</p> <p>20 A Yes. I have work boots.</p> <p>21 MS. GOETCHEUS: I would like to</p> <p>22 mark for identification as Defendant's</p> <p>23 Exhibit J a memo dated August 10, 1999</p> <p>24 from Mark A. Yanche, Chief of</p> <p>25 Operations, Maintenance of Way</p>
<p style="text-align: right;">71</p> <p>1 PHILBERT GORRICK</p> <p>2 D488 through 489, "Safety footwear." Have</p> <p>3 you seen this document before?</p> <p>4 A No.</p> <p>5 Q Are you familiar with its</p> <p>6 requirements?</p> <p>7 A I'm reading it now and -- yes.</p> <p>8 MS. GOETCHEUS: I would like to</p> <p>9 mark for identification as Defendant's</p> <p>10 Exhibit I a document dated 8/19/98</p> <p>11 titled "Safety Equipment Checklist</p> <p>12 Personal Protective Equipment," Bates</p> <p>13 numbered D1436.</p> <p>14 [The document was hereby marked</p> <p>15 as Defendant's Exhibit I for</p> <p>16 identification, as of this date.]</p> <p>17 Q Have you seen this document</p> <p>18 before (handing)?</p> <p>19 A (Perusing.) Yes.</p> <p>20 Q Is this your signature?</p> <p>21 A Yes.</p> <p>22 Q Did you, in fact, have</p> <p>23 1997-issued Lehigh safety boots as per MOW</p> <p>24 bulletin 98-21A?</p> <p>25 A No one issued me safety boots.</p>	<p style="text-align: right;">73</p> <p>1 PHILBERT GORRICK</p> <p>2 bulletin number 99-11, "Safety</p> <p>3 Footwear Distribution," Bates numbered</p> <p>4 P399 through 402.</p> <p>5 Just to make an observation</p> <p>6 here, although the plaintiff's</p> <p>7 document production has Bates numbers</p> <p>8 without a prefix letter, in an effort</p> <p>9 to make the record clear I'll state</p> <p>10 plaintiff's Bates numbers with a P</p> <p>11 prefix, if there's no objection.</p> <p>12 MR. LICHEN: Sounds good.</p> <p>13 [The documents were hereby</p> <p>14 marked as Defendant's Exhibit J for</p> <p>15 identification, as of this date.]</p> <p>16 Q Do you recognize this document</p> <p>17 (handing)?</p> <p>18 A (Perusing.) Yes.</p> <p>19 Q What do you recognize this</p> <p>20 document to be?</p> <p>21 A That the Transit Authority, for</p> <p>22 the first time, were going to be issuing</p> <p>23 us safety shoes.</p> <p>24 Q Where were you assigned to work</p> <p>25 in September 1999?</p>

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1 PHILBERT GORRICK  
 2 A Locust Avenue.  
 3 Q Did you attempt to replace your  
 4 safety boots when the mobile shoe truck  
 5 came to your work site in September 1999?  
 6 A Excuse me, may I ask a  
 7 question"? Replace"?  
 8 Q Did you attempt to obtain --  
 9 A Yes.  
 10 MR. LICHTEN: Wait until the  
 11 question is asked. What's the  
 12 question, "did you attempt to obtain?"  
 13 Q Safety boots, when the mobile  
 14 shoe truck came to your work site in  
 15 September of 1999?  
 16 A Yes.  
 17 Q What happened then?  
 18 A I took a pair of Oxford boots,  
 19 knowing of my vascular condition.  
 20 Q And what happened then?  
 21 A I wore the shoes.  
 22 Q And what happened then?  
 23 A Within a week, they opened  
 24 ulcers on my ankles.  
 25 Q And what happened then?

75

1 PHILBERT GORRICK  
 2 A I was out sick.  
 3 Q For how long were you out sick?  
 4 A A month or two. Probably about  
 5 a month.  
 6 Q And then what happened? Did you  
 7 eventually return to work?  
 8 A Yes.  
 9 Q And what did you do then with  
 10 respect to wearing safety shoes?  
 11 A Wear the shoes that I'm -- wear  
 12 the shoes that I was wearing prior to  
 13 wearing these shoes, on advisement from my  
 14 doctor.  
 15 Q And when had you obtained those  
 16 shoes that you were wearing that you just  
 17 testified that you were wearing when you  
 18 returned to work in 1999?  
 19 A Maybe two years prior.  
 20 Q In 1997?  
 21 A Yes.  
 22 Q And what had prompted you to  
 23 obtain those shoes in 1997?  
 24 A Because the one I had previously  
 25 were worn.

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1 PHILBERT GORRICK  
 2 MS. GOETCHEUS: I would like to  
 3 mark for identification as Defendant's  
 4 Exhibit K a memo dated October 27,  
 5 2000 from Kevin Fonseca,  
 6 Superintendent, cable section, to John  
 7 Campbell, General Superintendent, "re  
 8 work shoes." That is Bates numbered  
 9 P403.  
 10 [The document was hereby marked  
 11 as Defendant's Exhibit K for  
 12 identification, as of this date.]  
 13 Q Have you seen this document  
 14 before (handing)?  
 15 A (Perusing.) No.  
 16 Q It was part of your document  
 17 production Mr. Gorrick.  
 18 A No, I've never seen this.  
 19 Q Calling your attention to the  
 20 second and third paragraphs, it states "On  
 21 September 21, 1999, a mobile shoe truck  
 22 came to Locust Avenue and issued safety  
 23 work shoes to the employees. The mobile  
 24 truck did not carry the size shoes for  
 25 Philbert Gorrick and other employees with

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1 PHILBERT GORRICK  
 2 special size shoes. They gave Gorrick and  
 3 other employees with special size shoes  
 4 the address in Queens where they could go  
 5 for special size shoes order." Is that  
 6 correct?  
 7 A No, that's not correct. Okay,  
 8 as far as my memory is concerned, a number  
 9 of events took place. The truck did not  
 10 have my size on the truck and they gave us  
 11 instructions to go get shoes at this  
 12 location. But what happened, the truck  
 13 came back to deliver shoes to another  
 14 depot location, I think to the bus depot,  
 15 and there were shoes on the truck, so we  
 16 went there and got the shoes the next day  
 17 or I think the shoes were dropped off  
 18 there for us that day. So we never had to  
 19 go to Queens, so I got Oxford shoes.  
 20 Q Did you ever go to the Safegard  
 21 Hightest Safety Store in Queens?  
 22 A Down the line, yes, I went there  
 23 to acquire -- to see if I can acquire or  
 24 fit fiberglass shoes. That's during the  
 25 arbitration process, on advisement from

20



<p style="text-align: right;">78</p> <p>1 PHILBERT GORRICK</p> <p>2 Mr. Gus Rivera.</p> <p>3 Q In the period prior to October</p> <p>4 27, 2000, did you ever go to -- did you go</p> <p>5 to Safegard Hightest Safety Shoes?</p> <p>6 A Prior?</p> <p>7 MR. LICHTEN: Yeah, prior.</p> <p>8 A No.</p> <p>9 Q So that it is false, what Mr.</p> <p>10 Fonseca has written here, "Mr. Stan told</p> <p>11 me that they have called a number of times</p> <p>12 from the beginning of this year to let</p> <p>13 Gorrick know his shoes was in and he could</p> <p>14 pick them up. Today is Friday, October</p> <p>15 27, 2000, and Mr. Stan from Safegard</p> <p>16 Hightest Safety Shoes Store stated Gorrick</p> <p>17 did not pick up his shoes?"</p> <p>18 A Because the shoes were already</p> <p>19 issued to me. As I said, they came back</p> <p>20 the next day to issue shoes at another</p> <p>21 site and the gentleman dropped off shoes</p> <p>22 for me at that location. So it was not an</p> <p>23 issue for me to get the shoes. The shoes</p> <p>24 were issued to me at Locust Avenue.</p> <p>25 Q In September of 1999?</p>	<p style="text-align: right;">80</p> <p>1 PHILBERT GORRICK</p> <p>2 Mr. Rodney saw me with my own shoes and</p> <p>3 asked me if these are TA-issued shoes. I</p> <p>4 said no, they weren't. He took me out of</p> <p>5 service, had me report to Mr. Ingoglia on</p> <p>6 March 8th, and I explained to Mr. Ingoglia</p> <p>7 what the conditions were and he asked me</p> <p>8 to get fresh doctor's lines, which I did,</p> <p>9 and the issue of the shoes were that</p> <p>10 proper shoes were never met.</p> <p>11 Q Were you, in fact, out sick for</p> <p>12 a period following this memo?</p> <p>13 A I can't remember how it was</p> <p>14 carried.</p> <p>15 MS. GOETCHEUS: I would like to</p> <p>16 mark for identification as Defendant's</p> <p>17 Exhibit M a document dated 3/21/2000</p> <p>18 titled "Disciplinary Action</p> <p>19 Notification, failure to wear safety</p> <p>20 boots," Bates number D639, and as</p> <p>21 Defendant's Exhibit N a stipulation</p> <p>22 and agreement dated May 25, 2000,</p> <p>23 Bates numbered P322.</p> <p>24 [The documents were hereby</p> <p>25 marked as Defendant's Exhibits M and N</p>
<p style="text-align: right;">79</p> <p>1 PHILBERT GORRICK</p> <p>2 A September '99, yes.</p> <p>3 MS. GOETCHEUS: I would like to</p> <p>4 mark for identification as Defendant's</p> <p>5 Exhibit L a memo from Peter Ingoglia,</p> <p>6 I-N-G-O-G-L-I-A, Manager, labor</p> <p>7 relations, to Superintendent Rodney</p> <p>8 dated 3/8/2000, "re P. Gorrick PCM."</p> <p>9 Bates numbered P310.</p> <p>10 [The document was hereby marked</p> <p>11 as Defendant's Exhibit L for</p> <p>12 identification, as of this date.]</p> <p>13 Q Have you seen this document</p> <p>14 before (handing)?</p> <p>15 A (Perusing.) Oh, yes.</p> <p>16 Q Are you familiar with its</p> <p>17 contents?</p> <p>18 A Oh, yes.</p> <p>19 Q Did you claim in March 2000 to</p> <p>20 be unable to wear Transit safety shoes?</p> <p>21 A Yes.</p> <p>22 Q What occurred to cause this memo</p> <p>23 to be written?</p> <p>24 A At night I was transferred from</p> <p>25 Brooklyn to 1114 Atlantic Avenue, nights.</p>	<p style="text-align: right;">81</p> <p>1 PHILBERT GORRICK</p> <p>2 for identification, as of this date.]</p> <p>3 Q Have you seen this document</p> <p>4 before (handing)?</p> <p>5 A (Perusing.) Oh, yes.</p> <p>6 Q Is this your signature under the</p> <p>7 caption "Employee appeal"?</p> <p>8 A Yes.</p> <p>9 Q Why did you write "Under</p> <p>10 protest"? Is that your writing, "Under</p> <p>11 protest"?</p> <p>12 A Yes, it is.</p> <p>13 Q And what of the basis of that?</p> <p>14 A That the Transit Authority had</p> <p>15 the gumption to discipline me for a</p> <p>16 medical matter.</p> <p>17 Q All right, turning to the</p> <p>18 stipulation and agreement, Defendant's</p> <p>19 Exhibit N, is this the stipulation that</p> <p>20 you have referred to previously in your</p> <p>21 testimony?</p> <p>22 A (Perusing.) Yes, ma'am.</p> <p>23 Q Is this your signature over the</p> <p>24 caption "Grievant"?</p> <p>25 A Yes, ma'am.</p>

<p style="text-align: right;">82</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Did this settlement and</p> <p>3 agreement resolve Exhibit M, regarding</p> <p>4 your failure to wear safety issue boots?</p> <p>5 A Yes, ma'am.</p> <p>6 MS. GOETCHEUS: I would like to</p> <p>7 mark for identification as Defendant's</p> <p>8 Exhibit O a memo dated October 26,</p> <p>9 2000, from Vincent Valenti to John</p> <p>10 Campbell "re P. Gorrick, safety</p> <p>11 shoes," Bates number P406.</p> <p>12 [The document was hereby marked</p> <p>13 as Defendant's Exhibit O for</p> <p>14 identification, as of this date.]</p> <p>15 Q Have you seen this document</p> <p>16 before (handing)?</p> <p>17 A (Perusing.) No, I've never seen</p> <p>18 this before.</p> <p>19 Q It was produced in your document</p> <p>20 production.</p> <p>21 MR. LICHTEN: Is that a</p> <p>22 question?</p> <p>23 MS. GOETCHEUS: I'm just</p> <p>24 informing him it was provided in</p> <p>25 plaintiff's document production.</p>	<p style="text-align: right;">84</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Did you work anywhere else</p> <p>3 besides the tool shop between May and</p> <p>4 October 2000?</p> <p>5 A Yes.</p> <p>6 Q What was your assignment on</p> <p>7 October 9, 2000?</p> <p>8 A I was supposed to be working in</p> <p>9 the field that morning with Mr. Turner, O.</p> <p>10 Turner. He was supervisor along with</p> <p>11 Mr. Rosas, and we were supposed to be</p> <p>12 working out in the field.</p> <p>13 Q By "out in the field," what was</p> <p>14 the nature of the field assignment?</p> <p>15 A Maintain power cables on the</p> <p>16 ground and above, overhead cables.</p> <p>17 Q Down manholes?</p> <p>18 A Down manholes, street holes.</p> <p>19 Q Subway tracks?</p> <p>20 A Subway tracks.</p> <p>21 Q Between March 2000 and October</p> <p>22 2000, did you obtain footwear compliant</p> <p>23 with the TA policy?</p> <p>24 A I don't understand that</p> <p>25 question.</p>
<p style="text-align: right;">83</p> <p>1 PHILBERT GORRICK</p> <p>2 A Not that I could remember.</p> <p>3 Q I'm sorry?</p> <p>4 A I said not that I could</p> <p>5 remember. It may have, yes.</p> <p>6 Q In the second paragraph it</p> <p>7 refers to a "Temporary assignment in the</p> <p>8 tool shop to allow you an opportunity to</p> <p>9 get shoes that comply with TA standards."</p> <p>10 Were you, in fact, temporarily assigned to</p> <p>11 the tool shop in or about May of 2000?</p> <p>12 A No, I was in the tool shop. The</p> <p>13 temporary assignment was to work in the</p> <p>14 tool shop. The rights of assignments is</p> <p>15 the rights of the supervisors. There was</p> <p>16 no understanding that I was made -- I was</p> <p>17 on full work, full duty.</p> <p>18 Q You were on full duty from May</p> <p>19 2000?</p> <p>20 A From May 2000, I'm on full duty,</p> <p>21 yes, ma'am.</p> <p>22 Q And you did not work in the tool</p> <p>23 shop?</p> <p>24 A I worked there as part of my</p> <p>25 regular duties.</p>	<p style="text-align: right;">85</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Between March 2000 and October</p> <p>3 2000, did you obtain footwear compliant</p> <p>4 with the TA safety shoe policy?</p> <p>5 A I couldn't possibly do that. On</p> <p>6 advice of my doctor, I couldn't possibly</p> <p>7 wear the shoes that the Transit Authority</p> <p>8 wanted me to wear.</p> <p>9 Q In the third paragraph, it says</p> <p>10 "When MSII Lee approached him about his</p> <p>11 shoes," referring to you, "he said these</p> <p>12 are the shoes I want him to wear. Mr. Lee</p> <p>13 then sent him down to MOW safety, where he</p> <p>14 saw Mr. Gayle." Were you sent to see</p> <p>15 Richard Gayle on October 9, 2000?</p> <p>16 A Yes.</p> <p>17 Q Did Mr. Gayle examine your work</p> <p>18 shoes on that date?</p> <p>19 A Yes.</p> <p>20 MS. GOETCHEUS: I would like to</p> <p>21 mark for identification as Defendant's</p> <p>22 Exhibit P a memo dated October 9, 2000</p> <p>23 from Richard Gayle to John Campbell</p> <p>24 "re work boots evaluation, P Gorrick,"</p> <p>25 Bates numbered P409.</p>

<p style="text-align: right;">86</p> <p>1 PHILBERT GORRICK</p> <p>2 [The document was hereby marked</p> <p>3 as Defendant's Exhibit P for</p> <p>4 identification, as of this date.]</p> <p>5 Q Have you seen this document</p> <p>6 before (handing)?</p> <p>7 A (Perusing.) Yes.</p> <p>8 Q I call your attention to the</p> <p>9 statement, "Upon inspection it was</p> <p>10 discovered that the work boots were</p> <p>11 neither steel-toed nor did he possess</p> <p>12 documentation to substantiate that the</p> <p>13 boots are electrical hazard footwear."</p> <p>14 Did Mr. Gayle determine that your footwear</p> <p>15 did not comply with New York City Transit</p> <p>16 requirements?</p> <p>17 A You know, ma'am, I -- I need to</p> <p>18 clarify one thing here. You're talking</p> <p>19 about requirements, the shoe requirements.</p> <p>20 The shoe requirements, as I understand it,</p> <p>21 there was no requirements prior to 2000.</p> <p>22 So when we are talking requirements, I'm</p> <p>23 getting the impression that I was hiding</p> <p>24 these conditions to wear these shoes. I'm</p> <p>25 not doing that in court. I'm not doing it</p>	<p style="text-align: right;">88</p> <p>1 PHILBERT GORRICK</p> <p>2 Exhibit Q a memo dated October 27,</p> <p>3 2000 from J. Lee, MSII, to John</p> <p>4 Campbell, "re Gorrick, P.," that is</p> <p>5 Bates numbered P404 through 05.</p> <p>6 [The document was hereby marked</p> <p>7 as Defendant's Exhibit Q for</p> <p>8 identification, as of this date.]</p> <p>9 Q Have you seen this document</p> <p>10 before (handing)?</p> <p>11 A (Perusing.) Yes.</p> <p>12 Q In the fourth paragraph, it says</p> <p>13 "At approximately 11:30, with the</p> <p>14 supervisors whom he was assigned to for</p> <p>15 the day and superintendent V. Valenti, I</p> <p>16 informed Gorrick that the boots he was</p> <p>17 wearing were not approved." And the last</p> <p>18 paragraph on the page, "informing him that</p> <p>19 until he returns to work with approved</p> <p>20 work shoes, he could not work." Do you</p> <p>21 recall that conversation?</p> <p>22 A No.</p> <p>23 Q You've testified about</p> <p>24 Mr. Gayle's determination that your shoes</p> <p>25 did not comply with Transit requirements;</p>
<p style="text-align: right;">87</p> <p>1 PHILBERT GORRICK</p> <p>2 now. These shoes are supposed to protect</p> <p>3 me. If these shoes are injuring me, I</p> <p>4 cannot wear those.</p> <p>5 Q In terms of "safety conditions</p> <p>6 when going on the track," you were aware,</p> <p>7 were you not, that the Transit Authority</p> <p>8 required a steel toe in its safety shoes?</p> <p>9 A Yes, ma'am.</p> <p>10 Q And that it required</p> <p>11 documentation to substantiate that the</p> <p>12 boot was electrical hazard footwear?</p> <p>13 A No, ma'am.</p> <p>14 Q Did Mr. Gayle inform you that he</p> <p>15 had determined that your footwear did not</p> <p>16 comply with New York City Transit</p> <p>17 requirements?</p> <p>18 A Yes.</p> <p>19 Q Did he explain to you what</p> <p>20 requirements they did not comply with?</p> <p>21 A That it had a steel toe -- that</p> <p>22 it had a steel component, as stated there</p> <p>23 in 2000.</p> <p>24 MS. GOETCHEUS: I would like to</p> <p>25 mark for identification as Defendant's</p>	<p style="text-align: right;">89</p> <p>1 PHILBERT GORRICK</p> <p>2 is that correct?</p> <p>3 A Yes.</p> <p>4 Q Following that determination,</p> <p>5 what happened next?</p> <p>6 A I was out of service.</p> <p>7 Q Were you working for Concord</p> <p>8 Family Services at that time, in October</p> <p>9 2000?</p> <p>10 A My business was in contract --</p> <p>11 was doing business -- my business was</p> <p>12 doing business with Concord Family</p> <p>13 Services.</p> <p>14 Q Were you doing business with</p> <p>15 other clients at that time?</p> <p>16 A Not that I recollect.</p> <p>17 Q What days of the week did you</p> <p>18 provide services to Concord Family</p> <p>19 Services?</p> <p>20 A Every day. Seven days a week.</p> <p>21 Q What time of day?</p> <p>22 A Nights, days, remotely.</p> <p>23 Q How many hours per week did you</p> <p>24 work, typically, for Concord Family</p> <p>25 Services in October 2000?</p>

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1 PHILBERT GORRICK  
 2 A I can't tell you offhand.  
 3 Q More than ten?  
 4 A Could be, yes, more. I can't --  
 5 Q More than twenty?  
 6 A I can't tell you.  
 7 Q Did you ever work more than  
 8 twenty hours per week for Concord Family  
 9 Services during the period prior to  
 10 October 9, 2000?  
 11 A Yes.  
 12 Q Did you ever work more than  
 13 thirty hours per week for Concord Family  
 14 Services in the period before October 9,  
 15 2000?  
 16 A Yes.  
 17 Q Did you ever work more than  
 18 forty hours per week for Concord Family  
 19 Services in the period before October 9,  
 20 2000?  
 21 A My business might have, yes.  
 22 Q By "your business might have,"  
 23 did some other person -- you billed  
 24 Concord Family Services by the hour; is  
 25 that correct?

91

1 PHILBERT GORRICK  
 2 A Yes.  
 3 Q Did individuals other than  
 4 yourself provide the services?  
 5 A Yes.  
 6 Q Who were these individuals?  
 7 A Consultants that I might have  
 8 hired for specific skill -- with specific  
 9 skills.  
 10 MS. GOETCHEUS: I would like to  
 11 mark for identification as Defendant's  
 12 Exhibit R a Disciplinary Action  
 13 Notification dated October 26, 2000,  
 14 Bates number D1356.  
 15 [The document was hereby marked  
 16 as Defendant's Exhibit R for  
 17 identification, as of this date.]  
 18 Q Do you recognize this document  
 19 (handing)?  
 20 A (Perusing.) Yes.  
 21 Q And what do you recognize it to  
 22 be?  
 23 A That the Transit Authority  
 24 expected me to report for work with shoes  
 25 that were injuring me, and since I didn't

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1 PHILBERT GORRICK  
 2 do that they're saying that I failed to  
 3 report for work with approved safety  
 4 shoes.  
 5 Q Did you submit a grievance  
 6 contesting this disciplinary action?  
 7 A A grievance? No, ma'am.  
 8 Q Did you appeal this disciplinary  
 9 action notification?  
 10 A Yes.  
 11 MS. GOETCHEUS: Okay, I think  
 12 this is probably as good as any a  
 13 point to take a break for lunch.  
 14 MR. LICHTEN: Oh, you want to  
 15 break for lunch? Okay.  
 16 MS. GOETCHEUS: Well, it's ten  
 17 after 12:00.  
 18 MR. LICHTEN: For an hour?  
 19 MS. GOETCHEUS: Yeah. Or, you  
 20 know, if you want to come back at  
 21 1:00, that's okay.  
 22 [Whereupon, after a luncheon recess was taken,  
 23 the following was had:]  
 24 AFTERNOON SESSION  
 25 BY MS. GOETCHEUS:

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1 PHILBERT GORRICK  
 2 Q You're still under oath, Mr.  
 3 Gorrick. You understand?  
 4 A I understand, yes, thank you.  
 5 (It shall be noted that  
 6 Mr. Rivera is no longer in the room.)  
 7 MS. GOETCHEUS: I would like to  
 8 mark for identification as Defendant's  
 9 Exhibit S a letter dated October 26,  
 10 2007 from your attorney, Stuart  
 11 Lichten, to Magistrate Judge Peck,  
 12 with an attachment.  
 13 [The document was hereby marked  
 14 as Defendant's Exhibit S for  
 15 identification, as of this date.]  
 16 MR. LICHTEN: This is a six-page  
 17 document? Are there two letters?  
 18 MS. GOETCHEUS: Why don't we  
 19 just pull off the last two pages,  
 20 which I think are unrelated? They  
 21 just got stapled in.  
 22 MR. LICHTEN: I believe it's the  
 23 last three pages. Yeah, it's the last  
 24 three pages.  
 25 MS. GOETCHEUS: I see, yeah. I

24

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<p style="text-align: right;">94</p> <p>1 PHILBERT GORRICK</p> <p>2 guess they -- so the exhibit is three</p> <p>3 pages.</p> <p>4 Q Are you ready?</p> <p>5 A Yes.</p> <p>6 Q Okay, sorry. Do you recognize</p> <p>7 this letter?</p> <p>8 A Yes.</p> <p>9 Q What do you recognize it to be?</p> <p>10 A A letter from Mr. Schwartz's</p> <p>11 office to the judge, Justice Peck.</p> <p>12 Q Concerning your case?</p> <p>13 A Yes.</p> <p>14 Q I call your attention to the</p> <p>15 paragraph that begins on the first page,</p> <p>16 stating -- the last paragraph, stating</p> <p>17 "Since 1996, plaintiff has operated on his</p> <p>18 own time a sole proprietorship providing</p> <p>19 information technology consulting services</p> <p>20 to various clients including Concord</p> <p>21 Family Services, Inc., parenthesis</p> <p>22 Concord, a foster care agency." Is this</p> <p>23 statement correct?</p> <p>24 A Yes.</p> <p>25 Q When did you first provide</p>	<p style="text-align: right;">96</p> <p>1 PHILBERT GORRICK</p> <p>2 provision of services in 1996?</p> <p>3 A That my company would provide</p> <p>4 services to them and whatever their</p> <p>5 information needs are, we will provide.</p> <p>6 Q And by "your company," what do</p> <p>7 you mean?</p> <p>8 A Contemporary Technologies. The</p> <p>9 company that I -- my company.</p> <p>10 Q Is that a New York State</p> <p>11 corporation?</p> <p>12 A It is now a New York State</p> <p>13 corporation. Now it is, yes.</p> <p>14 Q And when did it become a New</p> <p>15 York State corporation?</p> <p>16 A Sometime this year or last year,</p> <p>17 I think. I'm not quite sure.</p> <p>18 Q 2006 or 2007?</p> <p>19 A Yes, maybe. I'm not quite sure.</p> <p>20 I can't remember the dates.</p> <p>21 Q But up until 2006 or 2007, it</p> <p>22 was not a corporation; is that correct?</p> <p>23 A Yes; it was not a corporation.</p> <p>24 Q Did there come a time when you</p> <p>25 entered into a written contract with</p>
<p style="text-align: right;">95</p> <p>1 PHILBERT GORRICK</p> <p>2 services to Concord Family Services?</p> <p>3 A Sometime in 1996.</p> <p>4 Q What services did you provide</p> <p>5 initially?</p> <p>6 A Advisement, oral advisement on</p> <p>7 the network system, computer system.</p> <p>8 Q On what days and hours did you</p> <p>9 provide these services?</p> <p>10 A Intermittently. I can't</p> <p>11 remember what days.</p> <p>12 Q Did you provide these services</p> <p>13 under a written contract initially in</p> <p>14 1996?</p> <p>15 A Maybe, yes.</p> <p>16 Q Maybe or yes?</p> <p>17 A I'm not quite sure.</p> <p>18 Q Did you ever provide services to</p> <p>19 Concord Family Services without a written</p> <p>20 contract?</p> <p>21 A Yes.</p> <p>22 Q And when was that?</p> <p>23 A 1996.</p> <p>24 Q And what was the nature of your</p> <p>25 understanding with Concord concerning your</p>	<p style="text-align: right;">97</p> <p>1 PHILBERT GORRICK</p> <p>2 Concord Family Services?</p> <p>3 A Yes.</p> <p>4 Q And when was this?</p> <p>5 A Either 1996 or shortly</p> <p>6 thereafter. Or 1996, one year or two</p> <p>7 after.</p> <p>8 Q And what was the nature of the</p> <p>9 agreement between you and Concord Family</p> <p>10 Services under that written contract?</p> <p>11 A That my company would provide</p> <p>12 services to them, IT services.</p> <p>13 Q And how would they pay you?</p> <p>14 A Hourly.</p> <p>15 Q And was there a fixed hourly</p> <p>16 rate?</p> <p>17 A Yes, there was.</p> <p>18 Q And what was that?</p> <p>19 A Seventy dollars an hour.</p> <p>20 Q Did that rate depend on who</p> <p>21 provided the services?</p> <p>22 A The company provided services.</p> <p>23 Q Did it depend on who was the</p> <p>24 individual who provided services --</p> <p>25 A The company.</p>



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1 PHILBERT GORRICK  
 2 Q -- via the company?  
 3 A The company. The seventy  
 4 dollars per hour is the rate at which the  
 5 company charges Concord Family Service.  
 6 Who provided service wouldn't be relevant,  
 7 would it?  
 8 Q Well, I'm asking you.  
 9 A No.  
 10 Q Regardless of the nature of the  
 11 services, it was charged at --  
 12 A Seventy dollars an hour.  
 13 Q -- seventy dollars an hour?  
 14 A Yes.  
 15 Q And who in 1996, besides you,  
 16 provided services to Concord Family  
 17 Services under this agreement?  
 18 A Consultants that I might require  
 19 for specific tasks.  
 20 Q We're talking about a specific  
 21 point in time, Mr. Gorrick. Who in  
 22 particular provided services? Named  
 23 individuals, if there are any?  
 24 A There are.  
 25 Q Well, then, give me their names.

100

1 PHILBERT GORRICK  
 2 A No, they weren't always written.  
 3 Q I didn't ask if they were  
 4 "always written."  
 5 A No, they weren't.  
 6 Q Were they ever written?  
 7 A No.  
 8 Q And what did you pay Avery  
 9 Simpson for services rendered on behalf of  
 10 your company to Concord Family Services?  
 11 A Whatever he charged.  
 12 Q And what did he charge?  
 13 A Multiple -- various amounts  
 14 based on the nature of the job that he's  
 15 required to do.  
 16 Q And what was the range of these  
 17 amounts?  
 18 A Based on what was required to  
 19 do, \$1,000, \$2,000, \$1,700, \$100.  
 20 Q Per hour?  
 21 A No; these were fixed amounts  
 22 based on the job required to do. So if  
 23 the job required to do that, that's what  
 24 you were paid. Whatever the charge, that  
 25 was paid.

99

1 PHILBERT GORRICK  
 2 A There are so many, I don't know  
 3 where to start.  
 4 Q Well, start with the ones you  
 5 recall.  
 6 A Okay, Avery Simpson, Trevor  
 7 Walker, and the persons that came and  
 8 worked with them, so they were responsible  
 9 for those people.  
 10 Q Who were they?  
 11 A No, the persons I named would be  
 12 responsible for those other persons.  
 13 Q And why can't you name the  
 14 additional people?  
 15 A Because they weren't on my --  
 16 those persons weren't directly on my  
 17 employment. They were subcontracted by  
 18 the persons I contracted.  
 19 Q And you contracted the work to  
 20 Avery Simpson and they subcontracted it to  
 21 others?  
 22 A They might have brought in other  
 23 persons with them to do work.  
 24 Q Were your subcontracts with  
 25 these individuals written?

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1 PHILBERT GORRICK  
 2 Q Did you bill those amounts  
 3 separately to Concord Family Services?  
 4 A No; Concord is not responsible  
 5 for that. I am responsible for that.  
 6 Q And how did you bill fixed  
 7 amounts from third parties on an hourly  
 8 rate?  
 9 MR. LICHTEN: Objection;  
 10 confusing. But if you understand --  
 11 Q Did you bill fixed charges by  
 12 third parties on an hourly-rate basis to  
 13 Concord Family Services?  
 14 A Yes.  
 15 Q How did you do that? How did  
 16 you depict them on your bills?  
 17 A Based on the hours that the job  
 18 required -- was required to be done, those  
 19 were the rates. The hours were given in  
 20 the invoices and that was it.  
 21 Q So if Avery Simpson -- you've  
 22 given the example that Avery Simpson might  
 23 charge you \$1,000 for a job. You  
 24 translate that \$1,000 charge into a number  
 25 of hours?

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<p style="text-align: right;">102</p> <p>1 PHILBERT GORRICK</p> <p>2 A Yes.</p> <p>3 Q And how did you do that?</p> <p>4 A Divided by seventy. Divided the</p> <p>5 money paid to Mr. Simpson by seventy.</p> <p>6 That would give me the amount of hours, if</p> <p>7 that was the example you're asking for.</p> <p>8 Q And is that how you billed Avery</p> <p>9 Simpson's work?</p> <p>10 A Its how I paid Avery Simpson.</p> <p>11 How I billed Concord is per my contract</p> <p>12 with Concord.</p> <p>13 Q And with Trevor Walker, is that</p> <p>14 also the manner in which you proceeded?</p> <p>15 A In the cases, yes.</p> <p>16 Q What about the cases you didn't</p> <p>17 proceed in that manner?</p> <p>18 A In the case where Mr. Walker</p> <p>19 would work individually, he got paid</p> <p>20 seventy dollars an hour.</p> <p>21 Q When you paid on an hourly rate,</p> <p>22 you paid the entire seventy dollars an</p> <p>23 hour you got from Concord Family Services</p> <p>24 to Mr. Walker or Mr. Simpson?</p> <p>25 A Yes.</p>	<p style="text-align: right;">104</p> <p>1 PHILBERT GORRICK</p> <p>2 Q And who were they?</p> <p>3 A Schools, foreign entities, Cisco</p> <p>4 Systems, companies outside of myself,</p> <p>5 other companies.</p> <p>6 Q And you billed those services to</p> <p>7 Concord Family Services at a seventy</p> <p>8 dollars per hour rate?</p> <p>9 A My company billed Concord Family</p> <p>10 Service for the services I provide.</p> <p>11 Concord Family Service had nothing to do</p> <p>12 with persons I contract to do that work.</p> <p>13 Q The question I'm asking,</p> <p>14 however, is I think you just testified</p> <p>15 that these individuals -- and you quickly</p> <p>16 went over them. Let's do it so I can</p> <p>17 actually hear them. You said something</p> <p>18 about Cisco Services (sic)?</p> <p>19 A Yes; a number of third-party</p> <p>20 companies are involved in my business.</p> <p>21 Q What are these third parties?</p> <p>22 A Microsoft, Cisco Systems, Sun</p> <p>23 Microsystems, Oracle.</p> <p>24 Q What about other individuals?</p> <p>25 A Yeah, I'm sure, but I can't</p>
<p style="text-align: right;">103</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Did you report your payments to</p> <p>3 Mr. Walker or Mr. Simpson to the IRS on</p> <p>4 forms 1099?</p> <p>5 A They were given -- I think --</p> <p>6 yes, they were given 1099s.</p> <p>7 Q By Contemporary Technologies?</p> <p>8 A By Contemporary Technologies,</p> <p>9 yes.</p> <p>10 Q For what time period did these</p> <p>11 two individuals provide services to</p> <p>12 Contemporary Technologies?</p> <p>13 A From 1996 till now, as we speak.</p> <p>14 Q To the present?</p> <p>15 A Yes.</p> <p>16 Q Did they provide services in</p> <p>17 2006?</p> <p>18 A Yes.</p> <p>19 Q Did they provide services in</p> <p>20 2005?</p> <p>21 A Yes.</p> <p>22 Q Are there other individuals who</p> <p>23 provided services to Contemporary</p> <p>24 Technologies in 2006?</p> <p>25 A Yes, there were.</p>	<p style="text-align: right;">105</p> <p>1 PHILBERT GORRICK</p> <p>2 remember them right now. But there may be</p> <p>3 individuals.</p> <p>4 Q We're talking about 2006, Mr.</p> <p>5 Gorrick. Who in 2006 --</p> <p>6 A I can't --</p> <p>7 MR. LICHTEN: Wait.</p> <p>8 Q -- provided services to you?</p> <p>9 A Ma'am, I can't remember. There</p> <p>10 are so many. There are too many.</p> <p>11 Q Is that also true for 2005?</p> <p>12 A Yes, ma'am.</p> <p>13 Q Is that true for 2004?</p> <p>14 A Yes, ma'am.</p> <p>15 Q Is that true for 2003?</p> <p>16 A Yes, ma'am.</p> <p>17 Q 2002?</p> <p>18 A Yes.</p> <p>19 Q Approximately how many hours per</p> <p>20 week do you personally provide services</p> <p>21 for Concord Family Services?</p> <p>22 A Ten.</p> <p>23 Q And for how long a period have</p> <p>24 you provided approximately ten hours per</p> <p>25 week for Concord Family Services?</p>

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1 PHILBERT GORRICK  
 2 A From the time I've been  
 3 contracting with Concord. That's an  
 4 average of ten hours. May be less, could  
 5 be more.  
 6 Q For what other periods did you  
 7 work in the period from 1996 to October  
 8 2000?  
 9 MR. LICHTEN: Objection;  
 10 confusing.  
 11 Q For what other -- well,  
 12 Mr. Lichten, in his letter, says --  
 13 MR. LICHTEN: You meant clients?  
 14 You said "periods."  
 15 MS. GOETCHEUS: I'm sorry.  
 16 MR. LICHTEN: You mean what  
 17 other clients? You said "what other  
 18 periods."  
 19 MS. GOETCHEUS: I'm sorry, I  
 20 meant clients, yeah. I apologize.  
 21 Q For what other clients did you  
 22 work for in the period from 1996 to  
 23 October 2000?  
 24 A Individuals -- individuals will  
 25 come to me and ask me for services.

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1 PHILBERT GORRICK  
 2 Q Please give names.  
 3 A Pharmacy Lessons.  
 4 Q "Pharmacy Lessons"?  
 5 A Yes.  
 6 Q That's an entity?  
 7 A It's an entity, yes.  
 8 Q And what's the nature of its  
 9 business?  
 10 A Provide training for pharmacy  
 11 technicians.  
 12 Q And what was the nature of the  
 13 services you provided to Pharmacy --  
 14 A IT consultant. Information  
 15 technology consultant.  
 16 Q And what period did you do that?  
 17 A From 1996 to -- 1995 to last  
 18 year.  
 19 Q By "last year," you mean 2006?  
 20 A In 2006.  
 21 Q And where are they located?  
 22 A They were located in Jamaica,  
 23 Queens. They're no longer there.  
 24 Q And did you receive payment from  
 25 Pharmacy Lessons for your services?

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1 PHILBERT GORRICK  
 2 A Not in all cases, no.  
 3 Q In any cases?  
 4 A Just a few times. Small,  
 5 insignificant amounts.  
 6 Q When did you receive payment?  
 7 A '05. And nothing in '06. They  
 8 owed me money in '06.  
 9 Q Prior to 2005?  
 10 A Nothing. They owe me.  
 11 Q Other clients for whom you  
 12 worked in the period from 1996 to October  
 13 2000?  
 14 A Not that I can remember.  
 15 Q I'm sorry?  
 16 A None that I can remember right  
 17 now.  
 18 Q What other clients have you  
 19 worked for subsequent to October 2000?  
 20 A None.  
 21 Q None?  
 22 A Subsequent?  
 23 Q To October 2000.  
 24 A Concord Family.  
 25 Q I'm just trying to hear your

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1 PHILBERT GORRICK  
 2 answer, I'm sorry.  
 3 A Subsequent means after 2000?  
 4 Q Yes, subsequent means after  
 5 2000.  
 6 A I can't answer that. I don't  
 7 know.  
 8 Q Did you perform services for any  
 9 client other than Concord Family  
 10 Services --  
 11 A No.  
 12 Q -- and Pharmacy Lessons?  
 13 A No, not that I can remember.  
 14 Q I'm not asking -- sir, either --  
 15 did you provide services for any other  
 16 clients besides Concord Family Services  
 17 and Pharmacy Lessons subsequent to October  
 18 2000?  
 19 A Ma'am, I can't remember. I  
 20 really can't.  
 21 Q In the last year, in 2007, have  
 22 you provided services for any clients  
 23 other than Concord Family Services?  
 24 A For paid services or unpaid  
 25 services? Paid services or unpaid

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<p style="text-align: right;">110</p> <p>1 PHILBERT GORRICK</p> <p>2 services?</p> <p>3 Q Paid or unpaid.</p> <p>4 A Yes, I provide service, unpaid</p> <p>5 services, to churches, my church.</p> <p>6 Q What is your church?</p> <p>7 A Presentation of the Blessed</p> <p>8 Virgin Mary.</p> <p>9 Q I'm sorry, could you just --</p> <p>10 A Presentation of the Blessed</p> <p>11 Virgin Mary.</p> <p>12 Q And what are the nature of the</p> <p>13 services you have provided to this church?</p> <p>14 A IT services.</p> <p>15 Q And the extent of the IT</p> <p>16 services you have provided to this --</p> <p>17 A IT services, ma'am. I just</p> <p>18 provide IT services. I don't --</p> <p>19 Q I mean how many hours have you</p> <p>20 provided --</p> <p>21 A What is necessary. I don't</p> <p>22 know, five hours, six hours. It's all</p> <p>23 gratis. I don't get paid for it.</p> <p>24 Q Five, six hours in the entire</p> <p>25 year 2000?</p>	<p style="text-align: right;">112</p> <p>1 PHILBERT GORRICK</p> <p>2 that, how many hours it were.</p> <p>3 Q Was it more than ten?</p> <p>4 A No, I don't think so. More than</p> <p>5 ten, no.</p> <p>6 Q Prior to 2004, did you provide</p> <p>7 IT services for your church, for this</p> <p>8 church?</p> <p>9 A Yes.</p> <p>10 Q And when?</p> <p>11 A Recreational work, some</p> <p>12 evenings, fix -- move a computer one place</p> <p>13 to the next. Half an hour, an hour.</p> <p>14 Accumulatively four, five hours a year.</p> <p>15 Q What period did you provide</p> <p>16 these services?</p> <p>17 A From 2000 to 2004.</p> <p>18 Q Any other unpaid provision of IT</p> <p>19 consulting or other IT services?</p> <p>20 A Not that I can remember.</p> <p>21 Q So the only paying client you</p> <p>22 have had for services has been Concord</p> <p>23 Family Services plus some work for</p> <p>24 Pharmacy Lessons?</p> <p>25 A Yes.</p>
<p style="text-align: right;">111</p> <p>1 PHILBERT GORRICK</p> <p>2 A Could be, maybe, yes.</p> <p>3 Q I'm asking you, sir. This is in</p> <p>4 the last year.</p> <p>5 A Yes, yes.</p> <p>6 Q In 2006, how many hours of IT</p> <p>7 service did you provide to this church?</p> <p>8 A None.</p> <p>9 Q Prior to 2006, did you provide</p> <p>10 IT services to this church?</p> <p>11 A Yes.</p> <p>12 Q When?</p> <p>13 A 2004-2005, definitely.</p> <p>14 Q And how many hours of service</p> <p>15 did you provide in 2005?</p> <p>16 A About fifteen hours.</p> <p>17 Q "Fifteen"?</p> <p>18 A Fifteen hours.</p> <p>19 Q One-five?</p> <p>20 A One-five, yes.</p> <p>21 Q And in 2000 -- you were</p> <p>22 answering 2005; is that correct?</p> <p>23 A Yes.</p> <p>24 Q 2004, how many hours?</p> <p>25 A I don't know. I can't remember</p>	<p style="text-align: right;">113</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Prior to your suspension in</p> <p>3 October 2000, did you ever submit a dual</p> <p>4 employment form to the Transit Authority?</p> <p>5 A Yes.</p> <p>6 Q To whom did you submit it?</p> <p>7 A Mr. Anthony Pogola.</p> <p>8 Q How do you spell that last name?</p> <p>9 A It's Pogola, P-O-G-O-L-A.</p> <p>10 Q And who is he?</p> <p>11 A General superintendent, cable</p> <p>12 section.</p> <p>13 Q When did you submit that form?</p> <p>14 A 1995.</p> <p>15 Q And at what location was that?</p> <p>16 A 1114 Atlantic Avenue.</p> <p>17 MS. GOETCHEUS: I would like to</p> <p>18 mark for identification as Defendant's</p> <p>19 Exhibit T thirteen pages of documents</p> <p>20 attached to and including a fax cover</p> <p>21 sheet from John Luard, Concord Family</p> <p>22 Services HR department.</p> <p>23 [The document was hereby marked</p> <p>24 as Defendant's Exhibit T for</p> <p>25 identification, as of this date.]</p>

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1 PHILBERT GORRICK  
 2 Q Turn to the documents that are  
 3 fax page number two and three, titled  
 4 "Contract," please.  
 5 A Yes.  
 6 Q Do you recognize this document?  
 7 A (Perusing.) Yes.  
 8 Q Is this your signature on the  
 9 page numbered three?  
 10 A Yes.  
 11 Q When was this contract executed?  
 12 A There's no date on it?  
 13 (Perusing.) This has to be in January of  
 14 2001.  
 15 Q And what leads you to that  
 16 conclusion?  
 17 A Since the period is in February  
 18 to January 2002.  
 19 Q Are you looking at pages two and  
 20 three, the fax pages two and three?  
 21 MR. LICHEN: Two and three  
 22 (indicating).  
 23 A Two and three? Oh, oh, oh, this  
 24 one (indicating).  
 25 MR. LICHEN: This page and this

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1 PHILBERT GORRICK  
 2 Q When did you execute this  
 3 contract?  
 4 A Oh, this had to be sometime in  
 5 January. January of 2001.  
 6 Q So prior to the period covered  
 7 by the contract?  
 8 A Yeah. Yes, yes.  
 9 Q Prior to the period covered by  
 10 the contract?  
 11 A Yes, yes. A month prior, yes.  
 12 Q When this contract expired in  
 13 January 2002, did you execute another  
 14 contract?  
 15 A Yes, I think. I'm not quite  
 16 sure.  
 17 Q Did you have a contract with  
 18 Concord Family Services prior to this  
 19 contract, by which I mean the one that you  
 20 say was executed in January 2001?  
 21 A Yes.  
 22 Q Were its terms similar?  
 23 A Yes.  
 24 Q And when was it executed, the  
 25 contract prior to this one executed in

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1 PHILBERT GORRICK  
 2 page (indicating).  
 3 A Okay. (Perusing.) All right,  
 4 this has no date on it. I can't tell you.  
 5 Q The executive director who  
 6 signed this, is that Lelar Floyd (ph)?  
 7 A Yes.  
 8 Q Is Ms. Floyd still with Concord  
 9 Family Services?  
 10 A I don't think so she is, no.  
 11 Q In fact, did Ms. Floyd leave  
 12 Concord Family Services in or about  
 13 October 2006?  
 14 A I don't know.  
 15 Q This contract, however, was  
 16 signed prior to Ms. Floyd's departure from  
 17 Concord Family Services; is that correct?  
 18 A That's right.  
 19 Q Turning to the document's fax  
 20 pages four and five, titled "Contract," do  
 21 you recognize this document?  
 22 A (Perusing.) Yes.  
 23 Q Is this your signature on the  
 24 page numbered five?  
 25 A Yes.

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1 PHILBERT GORRICK  
 2 January 2001?  
 3 A That had to be January 2000.  
 4 Q And was there a contract prior  
 5 to the one that you've just testified you  
 6 executed in January 2000?  
 7 A Yes. That would be -- we had a  
 8 yearly contract, yes.  
 9 Q You had a yearly contract? You  
 10 executed a contract in January 1999?  
 11 A Yes.  
 12 Q And in January 1998?  
 13 A Yes.  
 14 Q And in January 1997?  
 15 A I'm not quite sure.  
 16 Q Turning next to the document fax  
 17 page numbers six through eight, titled  
 18 "Duties and responsibilities," do you  
 19 recognize this document?  
 20 A (Perusing.) Yes.  
 21 Q What do you recognize it to be?  
 22 A The services offered by my  
 23 company.  
 24 Q When was it prepared?  
 25 A This document is prepared based

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<p style="text-align: right;">118</p> <p>1 PHILBERT GORRICK</p> <p>2 on my company's ability to provide the</p> <p>3 services, so if it's attached to one of</p> <p>4 the contracts then it was modified and</p> <p>5 prepared the same month or week of the</p> <p>6 contract.</p> <p>7 Q I'm sorry?</p> <p>8 A The company provides services</p> <p>9 based -- based on what the contract</p> <p>10 requires. So if the contract requires me</p> <p>11 to expand on my services, then those</p> <p>12 services would be reflected in the</p> <p>13 contract, on signing the contract. So</p> <p>14 this document had to be prepared with this</p> <p>15 contract of February 2001.</p> <p>16 Q And did you prepare this</p> <p>17 document, the duties and responsibilities</p> <p>18 document?</p> <p>19 A Yes. I myself, yes.</p> <p>20 Q Turning to the document's fax</p> <p>21 page nine, a 1099 with "Recipient,</p> <p>22 Philbert T. Gorrick, Contemporary</p> <p>23 Technologies," do you recognize this</p> <p>24 document?</p> <p>25 A Yes.</p>	<p style="text-align: right;">120</p> <p>1 PHILBERT GORRICK</p> <p>2 upgrades and expansion of the computer</p> <p>3 network"?</p> <p>4 A Yes. If that were the case,</p> <p>5 yes.</p> <p>6 Q Was it the case? Did they pay</p> <p>7 you an additional amount to reimburse you</p> <p>8 the cost of materials and associated</p> <p>9 equipment in 2006?</p> <p>10 A If the job required me to</p> <p>11 acquire materials and equipment, certainly</p> <p>12 they would have to replace the cost of</p> <p>13 that -- reimburse me for the cost of that</p> <p>14 equipment. If it doesn't, it doesn't.</p> <p>15 Q And I'm asking you specifically</p> <p>16 about 2006.</p> <p>17 A 2006, yes.</p> <p>18 Q Did Concord Family Services pay</p> <p>19 you an additional amount to that reported</p> <p>20 in the 1099 for the cost of all materials</p> <p>21 and associated equipments?</p> <p>22 A No.</p> <p>23 Q There were no -- you did not</p> <p>24 purchase any materials or associated</p> <p>25 equipments in 2006?</p>
<p style="text-align: right;">119</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Did Concord Family Services pay</p> <p>3 you the amount stated for your services in</p> <p>4 2006?</p> <p>5 A They paid the company for the</p> <p>6 services, yes.</p> <p>7 Q Did Concord Family Services pay</p> <p>8 you an additional amount pursuant to the</p> <p>9 terms of your contract to "reimburse you</p> <p>10 for the cost of all terms and associated</p> <p>11 equipment supplied for the purpose of the</p> <p>12 agreement"?</p> <p>13 A Reimbursement -- explain that</p> <p>14 for me, 'cause I don't understand.</p> <p>15 Q If you look at the contract --</p> <p>16 A Yes.</p> <p>17 Q -- in paragraph three of both --</p> <p>18 I believe both contracts.</p> <p>19 A Yeah.</p> <p>20 Q Yes, both contracts provide that</p> <p>21 "CFS will pay the contractor rate of</p> <p>22 seventy dollars per hour for the service</p> <p>23 described in paragraph two and the cost of</p> <p>24 all materials and associated equipments</p> <p>25 provided for the purpose of repairs,</p>	<p style="text-align: right;">121</p> <p>1 PHILBERT GORRICK</p> <p>2 A No equipment that I would have</p> <p>3 to bill them for. Equipment that they</p> <p>4 would have purchased by themselves.</p> <p>5 Q They purchased it directly?</p> <p>6 A And I was installing it. The</p> <p>7 equipment that I would purchase in order</p> <p>8 to do my job would be part of my seventy</p> <p>9 dollars an hour. That's my tools,</p> <p>10 equipment, et cetera, in my seventy</p> <p>11 dollars an hour. If it requires materials</p> <p>12 for cabling, wiring, stuff like that, I</p> <p>13 would go and purchase it. They would give</p> <p>14 me the money for that.</p> <p>15 Q But in 2006 --</p> <p>16 A That's how it goes for every</p> <p>17 year.</p> <p>18 Q Well, we have discussed several</p> <p>19 alternatives, so in 2006, in addition to</p> <p>20 the amount that they paid you in 2006, did</p> <p>21 they reimburse you under this provision</p> <p>22 for reimbursing the cost of all materials</p> <p>23 and associated equipments?</p> <p>24 A No, there's no reimbursement</p> <p>25 other than the cost of materials. If I</p>

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1 PHILBERT GORRICK  
 2 purchase material, then they reimburse me  
 3 for the expense of purchasing materials.  
 4 Q Did they in 2006?  
 5 A Reimburse me?  
 6 Q Yes, in 2006, that's my  
 7 question, for the amount in excess of the  
 8 amount they reported on the 1099. Does  
 9 the 1099 reflect the amount you were paid  
 10 at the rate of seventy dollars per hour by  
 11 Concord Family Services?  
 12 A The materials that are purchased  
 13 are a part -- some of the materials are  
 14 part of the seventy dollars an hour and  
 15 some of the materials that are significant  
 16 in terms of its presence, if I supply  
 17 those materials, then they reimburse me  
 18 for the cost of those materials. So for  
 19 me to say they did not or they did pay me,  
 20 part of some of the materials are involved  
 21 in my 1099 and there's some equipment that  
 22 they just purchased themselves, so that  
 23 would not be part of.  
 24 Q So in 2006 --  
 25 A Yes.

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1 PHILBERT GORRICK  
 2 Q -- did they pay you, did they  
 3 reimburse you for the cost of materials  
 4 and associated equipments, apart from the  
 5 amount they paid you at the seventy  
 6 dollars per hour rate that is reported on  
 7 the 1099?  
 8 A Yes, ma'am.  
 9 Q Now, you mentioned some  
 10 third-party corporations as providers of  
 11 service under the contract. You mentioned  
 12 Microsoft. Did you obtain personal  
 13 services via Microsoft on behalf of  
 14 Concord Family Services?  
 15 A No; personal service on behalf  
 16 of my company.  
 17 Q Please explain what that answer  
 18 means.  
 19 A In other words, if I need  
 20 resource -- if I need technical assistance  
 21 to institute a job, I will call on  
 22 Microsoft System to get personal  
 23 information from them for my benefit, for  
 24 my company's benefit.  
 25 Q And how would you bill it to

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1 PHILBERT GORRICK  
 2 Concord Family Services?  
 3 A I won't bill it to Concord.  
 4 That's my company, for my company. I  
 5 don't bill for that.  
 6 Q And the nature of the services  
 7 you obtained from Cisco on behalf of  
 8 Concord Family Services?  
 9 A Nothing on behalf of Concord.  
 10 All this information I get from Cisco  
 11 Systems is my own benefit, and I  
 12 provide -- I pay Cisco Systems directly  
 13 and use it at Concord Family Services.  
 14 Q And you do not bill Concord  
 15 Family Services for the cost of obtaining  
 16 software from Cisco?  
 17 A There's no software from Cisco.  
 18 Q Software from Microsoft?  
 19 A There's no software from  
 20 Microsoft. It's technical assistance.  
 21 Q And from Sun Microsystems?  
 22 A Technical assistance.  
 23 Q And from Oracle?  
 24 A Technical assistance.  
 25 Q Not software?

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1 PHILBERT GORRICK  
 2 A Not software.  
 3 Q In the address block on the 1099  
 4 there is a reference to a "Stay Daniels."  
 5 Who is Stay Daniels?  
 6 A Oh, she's the fiscal director.  
 7 Q The fiscal director of who, of  
 8 what?  
 9 A Concord Family Services.  
 10 Q How did you come to know Ms.  
 11 Daniels?  
 12 A At Concord Family Services.  
 13 Q Did you come to know her at  
 14 Concord Family Services?  
 15 A Concord Family Services, yes.  
 16 Q How did you come to know her?  
 17 A I -- they had a problem over  
 18 there. I was over there, someone asked if  
 19 I could help. I said yes, I could, and I  
 20 went and helped. And she, being the  
 21 person responsible for the fiscal aspect  
 22 of the company, I met her.  
 23 Q Was this when you had already  
 24 begun working for Concord Family Services?  
 25 A Yes.

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<p style="text-align: right;">126</p> <p>1 PHILBERT GORRICK</p> <p>2 Q About when did that occur?</p> <p>3 A 1990-something. Maybe '96.</p> <p>4 Q So early in your contact with</p> <p>5 Concord Family Services?</p> <p>6 A Yes.</p> <p>7 Q With respect to the remaining</p> <p>8 documents on fax pages ten, 11, 12 and 13,</p> <p>9 do you recognize these documents?</p> <p>10 A Yes.</p> <p>11 Q Are these IRS forms 1099 that</p> <p>12 Concord Family Services provided to you</p> <p>13 for payments made to you in the years,</p> <p>14 respectively, 2005, 2004, 2003 and 2002?</p> <p>15 A That's correct.</p> <p>16 Q And did Concord Family Services</p> <p>17 pay you the amount stated for your</p> <p>18 services in the stated years?</p> <p>19 A Paid the company for the</p> <p>20 services, yes.</p> <p>21 MS. GOETCHEUS: I would like to</p> <p>22 mark for identification as Defendant's</p> <p>23 Exhibit U an affidavit sworn to</p> <p>24 October 24, 2006.</p> <p>25 [The document was hereby marked</p>	<p style="text-align: right;">128</p> <p>1 PHILBERT GORRICK</p> <p>2 on an award.</p> <p>3 Q But in order to obtain payment;</p> <p>4 is that correct?</p> <p>5 A Yes.</p> <p>6 MS. GOETCHEUS: I would like to</p> <p>7 mark for identification as Defendant's</p> <p>8 Exhibit V a payroll check stub</p> <p>9 information form dated December 10,</p> <p>10 2006, Bates stamped P511.</p> <p>11 [The document was hereby marked</p> <p>12 as Defendant's Exhibit V for</p> <p>13 identification, as of this date.]</p> <p>14 Q Do you recognize this document</p> <p>15 (handing)?</p> <p>16 A (Perusing.) Yes.</p> <p>17 Q What do you recognize it to be?</p> <p>18 A This is a copy of a check that</p> <p>19 was sent to me.</p> <p>20 Q Is this your signature?</p> <p>21 A Yes.</p> <p>22 Q Under what circumstances did you</p> <p>23 sign this form?</p> <p>24 MR. LICHTEN: I'm going to</p> <p>25 object to that as calling for</p>
<p style="text-align: right;">127</p> <p>1 PHILBERT GORRICK</p> <p>2 as Defendant's Exhibit U for</p> <p>3 identification, as of this date.]</p> <p>4 Q Do you recognize this document</p> <p>5 (handing)?</p> <p>6 A (Perusing.) Yes.</p> <p>7 Q Is this your signature on it?</p> <p>8 A Yes.</p> <p>9 Q What led you to prepare and</p> <p>10 execute this affidavit?</p> <p>11 A That I was suspended from my</p> <p>12 position. At the end of arbitration</p> <p>13 award, I was asked to sign this.</p> <p>14 Q For what purpose did you sign</p> <p>15 this?</p> <p>16 A They asked me if I made any</p> <p>17 earnings outside my employment, and that</p> <p>18 was no.</p> <p>19 Q And you made this affidavit in</p> <p>20 order to receive payment; is that correct?</p> <p>21 A I made this affidavit to receive</p> <p>22 payment based on an award.</p> <p>23 Q In order to obtain payment by</p> <p>24 the Transit Authority; is that correct?</p> <p>25 A Based on an award, yes. Based</p>	<p style="text-align: right;">129</p> <p>1 PHILBERT GORRICK</p> <p>2 attorney/client-privileged</p> <p>3 information.</p> <p>4 MS. GOETCHEUS: Okay. All</p> <p>5 right, then.</p> <p>6 Q Turning back to Exhibit U, it</p> <p>7 states "During a portion of the aforesaid</p> <p>8 suspension from 2000 to 2004, I was not</p> <p>9 employed elsewhere in any capacity and did</p> <p>10 not derive any earnings from any other</p> <p>11 employment by self or otherwise, nor did I</p> <p>12 perform any work or services for which I</p> <p>13 was entitled to be paid now or any future</p> <p>14 date, nor did I receive any unemployment</p> <p>15 insurance benefits or public assistance."</p> <p>16 Is this statement true?</p> <p>17 A That is true.</p> <p>18 Q Please explain how this</p> <p>19 affidavit is consistent with your earning</p> <p>20 statements for the years 2002, 2003 and</p> <p>21 2004 from Concord Family Services.</p> <p>22 A Concord Family Services paid my</p> <p>23 business, my business operated at a loss,</p> <p>24 and I was working for Con -- sorry. My</p> <p>25 business operated with Concord during my</p>



<p style="text-align: right;">130</p> <p>1 PHILBERT GORRICK</p> <p>2 active employment with Transit Authority.</p> <p>3 I depended on Transit Authority's income</p> <p>4 to survive and I never got it for seven</p> <p>5 years, so in fact I didn't earn any</p> <p>6 income.</p> <p>7 Q But this doesn't ask that,</p> <p>8 actually; does it? It asks did you have</p> <p>9 any earnings.</p> <p>10 A The Transit Authority knew I had</p> <p>11 earnings. I would assume any intelligent</p> <p>12 person would assume that the Transit</p> <p>13 Authority had records that I had a dual</p> <p>14 business going, wouldn't ask me a question</p> <p>15 like this knowing that I had a dual</p> <p>16 business going and not say that it's true.</p> <p>17 Q However --</p> <p>18 A Do you understand?</p> <p>19 MR. LICHTEN: Its all right, she</p> <p>20 asks the questions.</p> <p>21 MS. GOETCHEUS: I would like to</p> <p>22 mark for identification as Defendant's</p> <p>23 Exhibit W Plaintiff's 2006 income tax</p> <p>24 return, produced by your attorney in</p> <p>25 September of this year.</p>	<p style="text-align: right;">132</p> <p>1 PHILBERT GORRICK</p> <p>2 records, I needed some records, and since</p> <p>3 I was moving all over the place, I had to</p> <p>4 acquire most of them, which most of them</p> <p>5 is absent from here (indicating), but I</p> <p>6 had to -- I filed anyhow.</p> <p>7 Q Did you assist in the</p> <p>8 preparation of this return?</p> <p>9 A I granted some information, yes.</p> <p>10 Granted some information that I had.</p> <p>11 Q Is the information in the tax</p> <p>12 return to the best of your knowledge?</p> <p>13 A To the best of the knowledge</p> <p>14 with what I had, yes.</p> <p>15 Q Turning to page nine of the fax,</p> <p>16 fax page nine --</p> <p>17 MR. LICHTEN: Fax page nine out</p> <p>18 of 33?</p> <p>19 MS. GOETCHEUS: Nine out of 33,</p> <p>20 yes.</p> <p>21 Q -- titled "Profit or loss from</p> <p>22 business," there is an entry on line nine,</p> <p>23 "Car and truck expenses," in the amount of</p> <p>24 "\$4,210." What do these represent?</p> <p>25 A Payments for car insurance, et</p>
<p style="text-align: right;">131</p> <p>1 PHILBERT GORRICK</p> <p>2 [The document was hereby marked</p> <p>3 as Defendant's Exhibit W for</p> <p>4 identification, as of this date.]</p> <p>5 Q Do you recognize this document</p> <p>6 (handing)?</p> <p>7 A (Perusing.) Yes I do.</p> <p>8 Q It was, in fact, filed on your</p> <p>9 behalf with the tax authorities?</p> <p>10 A Yes.</p> <p>11 Q Why did you file your 2006 tax</p> <p>12 return in September 2007?</p> <p>13 A That's when I filed it.</p> <p>14 Q The 2006 tax return is</p> <p>15 ordinarily due in April of the year</p> <p>16 following. Why didn't you file it in</p> <p>17 April of 2007?</p> <p>18 A Because I had other income --</p> <p>19 other income tax issues and I talked to my</p> <p>20 accountant and everything else, so I</p> <p>21 waited until I cleared up all of that</p> <p>22 before I filed.</p> <p>23 Q What were the nature of your</p> <p>24 income tax issues with your accountant?</p> <p>25 A Well, I couldn't find some</p>	<p style="text-align: right;">133</p> <p>1 PHILBERT GORRICK</p> <p>2 cetera. This is far from accurate 'cause,</p> <p>3 as I said, some information that is given</p> <p>4 here does not actually reflect what the</p> <p>5 expenses were, since I was living in</p> <p>6 different places. You would assume that</p> <p>7 since I rent the car, the insurance and</p> <p>8 payment for the car is much more than</p> <p>9 \$4,000 a year.</p> <p>10 Q This is for your personal</p> <p>11 automobile?</p> <p>12 A This is for automobile connected</p> <p>13 to my business, yes.</p> <p>14 Q Which is your personal</p> <p>15 automobile?</p> <p>16 A Its connected to my business,</p> <p>17 yes.</p> <p>18 Q Do you have another automobile</p> <p>19 that is your personal automobile?</p> <p>20 A No.</p> <p>21 Q It is the automobile you use for</p> <p>22 personal purposes?</p> <p>23 A Yes.</p> <p>24 Q Looking at the entry on line ten</p> <p>25 for "Commissions and fees, \$29,116," what</p>

<p style="text-align: right;">134</p> <p>1 PHILBERT GORRICK</p> <p>2 do these represent?</p> <p>3 A Line ten?</p> <p>4 Q Its right below the</p> <p>5 automotive --</p> <p>6 A Okay, there's a connection with</p> <p>7 training -- bulk of this is training,</p> <p>8 labs, books, et cetera.</p> <p>9 Q Which you obtained for your</p> <p>10 personal use?</p> <p>11 A Personal development, yes.</p> <p>12 Q Turning to the entry on line 15,</p> <p>13 "Insurance other than health, \$2,998,"</p> <p>14 what type of insurance is that?</p> <p>15 A Its equipment insurance -- most</p> <p>16 of it is equipment insurance.</p> <p>17 Q What do you mean by "equipment</p> <p>18 insurance"?</p> <p>19 A Well, I've got fairly expensive</p> <p>20 testing equipment that I have to use and</p> <p>21 in light of my -- in the line of the job,</p> <p>22 and I need to insure them so in case they</p> <p>23 got damaged or broken they can be</p> <p>24 replaced.</p> <p>25 Q On line 17 for "Legal and</p>	<p style="text-align: right;">136</p> <p>1 PHILBERT GORRICK</p> <p>2 expense, then?</p> <p>3 A From my laptop and from my car.</p> <p>4 Working in my car on my laptop.</p> <p>5 Q And where do you store the</p> <p>6 equipment that you insure and utilize?</p> <p>7 A In my car.</p> <p>8 Q On line 20A, there is an entry</p> <p>9 for "Vehicles, machinery and equipment" in</p> <p>10 the amount of "\$8,988." What does that</p> <p>11 represent?</p> <p>12 A Repairs, services, accidents.</p> <p>13 Q To what?</p> <p>14 A To my car.</p> <p>15 Q And your car is your 2006 BMW;</p> <p>16 is that correct?</p> <p>17 A Yes. I had a car before 2002</p> <p>18 BMW.</p> <p>19 Q In 2006, did you still own your</p> <p>20 2002 BMW?</p> <p>21 A No.</p> <p>22 Q We're looking at your 2006 tax</p> <p>23 returns.</p> <p>24 A Yes.</p> <p>25 Q So we're talking about this</p>
<p style="text-align: right;">135</p> <p>1 PHILBERT GORRICK</p> <p>2 professional services" in the amount of</p> <p>3 "\$650," what was that for?</p> <p>4 A Business advisement.</p> <p>5 Q By what sort of provider?</p> <p>6 A Business provider, advisement on</p> <p>7 my business. This is connection with</p> <p>8 people that provide legal services,</p> <p>9 contract services, et cetera.</p> <p>10 Q In 2006, specifically, from whom</p> <p>11 did you obtain services for which you paid</p> <p>12 the amount of \$650?</p> <p>13 A My tax preparer is one, which is</p> <p>14 Mr. -- what's his name? Its not on there.</p> <p>15 And forms, legal office forms, et cetera.</p> <p>16 Q Looking at the entry on line 18,</p> <p>17 "Office expense" in the amount of</p> <p>18 "\$9,600," what does that represent?</p> <p>19 A Equipment, furniture, tools --</p> <p>20 lab equipment, tools, furniture --</p> <p>21 majority is lab equipment and tools.</p> <p>22 Q Do you maintain an office?</p> <p>23 A If I maintain an office? No, I</p> <p>24 don't maintain an office.</p> <p>25 Q Where do you incur this office</p>	<p style="text-align: right;">137</p> <p>1 PHILBERT GORRICK</p> <p>2 \$8,988 concerns repairs, you said, to</p> <p>3 your --</p> <p>4 A Repairs, maintenance, services</p> <p>5 to my car.</p> <p>6 Q To your 2006 BMW; is that</p> <p>7 correct?</p> <p>8 A Yes, ma'am, that's correct.</p> <p>9 Q The entry on line 21 for</p> <p>10 "Repairs and maintenance" in the amount of</p> <p>11 "\$2,018," what does that represent?</p> <p>12 A Okay, the equipment I have, I</p> <p>13 have to maintain insurance -- in order to</p> <p>14 maintain insurance on the equipment, I</p> <p>15 have to maintain service contract on the</p> <p>16 equipment I have, so that's the cost of</p> <p>17 that.</p> <p>18 Q On line 22, the entry for</p> <p>19 "Supplies" in the amount of "\$2,611," what</p> <p>20 does that represent?</p> <p>21 A That represents training,</p> <p>22 materials, disks, other equipment. All</p> <p>23 sorts of equipment.</p> <p>24 Q I'm sorry?</p> <p>25 A Disks, hardware and stuff that I</p>

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1 PHILBERT GORRICK  
 2 need to execute my job, execute my  
 3 business.  
 4 Q Were you reimbursed for any of  
 5 these costs by Concord Family Services?  
 6 A Oh, no. This is connection with  
 7 my business, no.  
 8 Q The entry on line 23, "Taxes and  
 9 licenses," amount of "\$325," what does  
 10 that represent?  
 11 A Car licensing, personal  
 12 licensing, et cetera.  
 13 Q What personal licensing do you  
 14 obtain?  
 15 A Well, I have to maintain a  
 16 certification from Microsoft, Cisco and  
 17 Sun.  
 18 Q Line 24A, "Travel," in the  
 19 amount of "\$598," what does that  
 20 represent?  
 21 A Moving from place to place.  
 22 Q Is this moving from place to  
 23 place for business reasons?  
 24 A Business reasons.  
 25 Q The entry on line 25 in the

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1 PHILBERT GORRICK  
 2 insurance deduction," in the amount of  
 3 "\$7,549," what does that represent?  
 4 A My insurance.  
 5 Q Do you carry health insurance?  
 6 A I don't carry health insurance,  
 7 no. I can't afford it.  
 8 Q Turning to fax page 28, to a  
 9 title "New York City 202 Unincorporated  
 10 Business Tax Return," and the entry on  
 11 line 15 for exemption, "Taxpayer operating  
 12 more than one business or short-period  
 13 taxpayer," in the amount of "\$5,000," what  
 14 does that entry represent?  
 15 A I don't know. I can't -- I  
 16 really can't tell you what it is.  
 17 Q Did you operate more than one  
 18 business in 2006?  
 19 A I -- I -- I can't -- I can't  
 20 say. I may have. I'm not quite sure.  
 21 Q Did you operate your business  
 22 for less than the full year in 2006?  
 23 A There was a short period of time  
 24 which I -- when I stopped.  
 25 Q Well, what was the period of

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1 PHILBERT GORRICK  
 2 amount of "\$33,149," what does that  
 3 represent?  
 4 A Gasoline.  
 5 Q Utilities?  
 6 A Gasoline.  
 7 Q Gasoline for your motor vehicle?  
 8 A For my motor vehicle.  
 9 Q For your BMW?  
 10 A Yes.  
 11 Q Turning to the next page of the  
 12 Profit or Loss for Business form, fax page  
 13 ten, the entry on line 38 in the amount of  
 14 "\$5,612," what does that represent?  
 15 A Business materials and supplies.  
 16 Q That's what the caption says.  
 17 What does it represent?  
 18 A There are some things that I'm  
 19 not charging that are expendable, like  
 20 cables, drop cables, small cables, et  
 21 cetera.  
 22 Q And you --  
 23 A It's not billable.  
 24 Q Turning to fax page three,  
 25 looking at line 29, "Self-employed health

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1 PHILBERT GORRICK  
 2 time that you stopped in 2006?  
 3 A My sister was very ill, so I had  
 4 to take care of her son, so I was not  
 5 working. The business was not working.  
 6 Q What was that time period?  
 7 A From January to about April,  
 8 May.  
 9 Q And during that time, you did  
 10 not provide services to Concord Family  
 11 Service?  
 12 A At that time my business  
 13 continued to provide services, but limited  
 14 services, since I was not directly  
 15 involved. Limited.  
 16 Q Did you file an income tax  
 17 return for 2005?  
 18 A I -- I don't know. I may have,  
 19 yes.  
 20 Q Turning to fax page 11, the  
 21 Two-year Comparison Worksheet that is  
 22 attached there, is this an accurate  
 23 summary of your 2005 tax return?  
 24 A I don't know, I can't -- I don't  
 25 have it in front of me, so I don't know.

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<p style="text-align: right;">142</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Do you have reason to believe</p> <p>3 this is not an accurate summary of your --</p> <p>4 A No.</p> <p>5 Q -- tax year 2005?</p> <p>6 A No, I don't have reasons to</p> <p>7 believe it's inaccurate.</p> <p>8 Q I'm sorry?</p> <p>9 A No, I don't have reason to</p> <p>10 believe that it is inaccurate.</p> <p>11 Q In this comparison, it is</p> <p>12 notable that the amount of the commission</p> <p>13 and fees deduction increased substantially</p> <p>14 in 2006 as compared to 2005; is that</p> <p>15 correct?</p> <p>16 A Repeat that, please.</p> <p>17 Q If you look at the entry for</p> <p>18 commission and fees --</p> <p>19 A Yes.</p> <p>20 Q -- in the tax year 2005, it is</p> <p>21 "\$2,892" --</p> <p>22 A Yes.</p> <p>23 Q -- and in the tax year 2006, it</p> <p>24 is "\$29,116."</p> <p>25 A Yes.</p>	<p style="text-align: right;">144</p> <p>1 PHILBERT GORRICK</p> <p>2 Q After you received back pay from</p> <p>3 Transit in 2006, did you file an amended</p> <p>4 2004 tax return?</p> <p>5 A I don't -- I don't think I did,</p> <p>6 but I don't know. I may have.</p> <p>7 Q Did you ever file a tax return</p> <p>8 in which you reported the back pay you</p> <p>9 received from New York City Transit?</p> <p>10 A I don't -- I can't remember.</p> <p>11 Q Did you file an income tax</p> <p>12 return for 2003?</p> <p>13 A I just -- I can't remember, no.</p> <p>14 I may have, I may not, I don't know. I</p> <p>15 may have. I don't have it in front of me,</p> <p>16 so I don't know.</p> <p>17 Q From the time you left -- you</p> <p>18 were suspended by Transit in October of</p> <p>19 2000 to your filing this tax return in or</p> <p>20 about September of 2007, did you file any</p> <p>21 tax returns?</p> <p>22 A Yes, I filed tax returns, I</p> <p>23 think, in 2000 itself. I think it's 2000</p> <p>24 and -- I really can't -- I can't remember,</p> <p>25 'cause I had to make an amendment. I lost</p>
<p style="text-align: right;">143</p> <p>1 PHILBERT GORRICK</p> <p>2 Q How did that happen to increase</p> <p>3 so much between 2005 and 2006?</p> <p>4 A Something happened. What</p> <p>5 happened? Okay, these were -- I think</p> <p>6 this was -- in 2006, I had to do a number</p> <p>7 of examinations, one which -- two of which</p> <p>8 I failed significantly badly in Nova</p> <p>9 Scotia. Yeah, this has to do with the</p> <p>10 Cisco exams and they were pretty</p> <p>11 expensive. I didn't do very well. This</p> <p>12 was for examination purpose, certification</p> <p>13 purposes.</p> <p>14 Q You said you took and failed an</p> <p>15 examination in 2006?</p> <p>16 A Yes. I did a number of</p> <p>17 examinations and failed them because my</p> <p>18 sister's illness and everything else, with</p> <p>19 Cisco with Microsoft and with Sun.</p> <p>20 Q And you failed all of them?</p> <p>21 A Yes. It was pretty intense.</p> <p>22 Q Did you file an income tax</p> <p>23 return for 2004?</p> <p>24 A I don't know, I may have. I'm</p> <p>25 not quite sure.</p>	<p style="text-align: right;">145</p> <p>1 PHILBERT GORRICK</p> <p>2 in 2003, 2004, 2000 -- and then because I</p> <p>3 couldn't find my records, I was all over</p> <p>4 the place, problem with the wife and</p> <p>5 everything else, no, that wasn't possible.</p> <p>6 I don't think I did.</p> <p>7 MS. GOETCHEUS: I would like to</p> <p>8 mark for identification as Defendant's</p> <p>9 Exhibit X, DMV, Department of Motor</p> <p>10 Vehicle, records of your auto</p> <p>11 ownership from 1998 to the present.</p> <p>12 [The documents were hereby</p> <p>13 marked as Defendant's Exhibit X for</p> <p>14 identification, as of this date.]</p> <p>15 MR. LICHTEN: Okay, I'm going to</p> <p>16 object to all questions asked about</p> <p>17 this exhibit because I believe it was</p> <p>18 unlawfully obtained, but the witness</p> <p>19 can answer the questions. I have a</p> <p>20 standing objection that basis.</p> <p>21 Q Is it correct that you have</p> <p>22 owned a 2000 Cadillac?</p> <p>23 A Yes.</p> <p>24 Q What model?</p> <p>25 A 2000 Cadillac.</p>

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1 PHILBERT GORRICK  
 2 Q Well, what model of Cadillac?  
 3 There's more than one Cadillac; is there  
 4 not?  
 5 A Oh, sorry, Escalade.  
 6 Q Sorry?  
 7 A Escalade.  
 8 Q An Escalade?  
 9 A Yes.  
 10 Q Approximately when did you  
 11 purchase it?  
 12 A 1999.  
 13 Q How much did it cost?  
 14 A I can't remember.  
 15 Q When did you dispose of it?  
 16 A Traded it in.  
 17 Q Okay.  
 18 A In 1994. Sorry, 2004. For the  
 19 BMW.  
 20 Q You say you "traded it in."  
 21 What did you trade it in on?  
 22 A I traded it in on 2002 BMW 745.  
 23 Q Which leads to my question of is  
 24 it correct that you have owned a 2002 BMW?  
 25 A Yes.

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1 PHILBERT GORRICK  
 2 Q And what model?  
 3 A 2002, 745..  
 4 Q And is that a sedan or is that  
 5 a --  
 6 A I'm kind of confused about the  
 7 "sedan."  
 8 Q Is it an SUV?  
 9 A It's a car, it's a big car.  
 10 It's a four-door car.  
 11 Q SUV?  
 12 A No, no, four-door car. It's a  
 13 regular car, but it's a big car.  
 14 Q Approximately when did you  
 15 purchase it?  
 16 A In November. November of 2004.  
 17 Q And when did you dispose of it?  
 18 A 2005.  
 19 Q Approximately when?  
 20 A October, November.  
 21 Q And is it correct that you  
 22 currently own a 2006 BMW?  
 23 A Yes; I traded that car in for  
 24 that one.  
 25 Q And what model is this car?

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1 PHILBERT GORRICK  
 2 A 745.  
 3 Q And approximately how much did  
 4 it cost?  
 5 A Cost me \$30,000, with the  
 6 previous car.  
 7 Q And approximately when did you  
 8 purchase it?  
 9 A October.  
 10 Q Of 2005?  
 11 A Yes.  
 12 Q Since 2000, have you owned any  
 13 other vehicles?  
 14 A Since 2000?  
 15 Q Right.  
 16 A Oh, yes.  
 17 Q And what were they?  
 18 A It was one -- the one that got  
 19 repossessed.  
 20 Q The GMC?  
 21 A GMC Suburban.  
 22 Q And when did you obtain that  
 23 car?  
 24 A Sometime in late 2000 or early  
 25 2001.

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1 PHILBERT GORRICK  
 2 Q And when was it repossessed?  
 3 A Around the end of 2001.  
 4 Q And what model year was it?  
 5 A It was 1997. 1997 GMC Suburban.  
 6 Q Now, turning to the last page of  
 7 the DMV records, there is an entry for a  
 8 "'98 Chevrolet green four-door sedan." I  
 9 believe "4DSD" means --  
 10 A Yeah.  
 11 Q Did you, at some time, own a '98  
 12 Chevrolet, green Chevrolet?  
 13 A Yes; that was a leased vehicle.  
 14 Q And for what period did you  
 15 lease that vehicle?  
 16 A Just two years.  
 17 Q For what two years?  
 18 A From this is a 1998? From 1998  
 19 to 2000.  
 20 Q Now, the record here reads  
 21 "Valid April 20, 2000, expires April 14,  
 22 2002." Does that refresh your  
 23 recollection as to the time period you had  
 24 that vehicle?  
 25 A The last page, you say?

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<p style="text-align: right;">150</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Yes, in the middle of the page.</p> <p>3 A (Perusing.) Oh, no, this is one</p> <p>4 of the -- no, this is not right. That was</p> <p>5 a new vehicle. I got it in -- in 1997.</p> <p>6 '97, September. Leased.</p> <p>7 Q Which vehicle are you referring</p> <p>8 to?</p> <p>9 A I'm referring to "'98 Chevy</p> <p>10 green four-door vehicle," yes. That was</p> <p>11 in '97.</p> <p>12 Q And when did you -- do you still</p> <p>13 own that vehicle?</p> <p>14 A It's a leased vehicle.</p> <p>15 Q And how long did you lease it</p> <p>16 for?</p> <p>17 A Two years.</p> <p>18 Q From 1997 through 1999?</p> <p>19 A 1999? Through 1999 or -- is it</p> <p>20 two years?</p> <p>21 Q So this entry here is erroneous,</p> <p>22 where it says --</p> <p>23 A No, it had to be three years.</p> <p>24 From 1997 to the end of 2000.</p> <p>25 MS. GOETCHEUS: Maybe we could</p>	<p style="text-align: right;">152</p> <p>1 PHILBERT GORRICK</p> <p>2 Exhibit Y an "Opinion and award, re</p> <p>3 Mr. Philbert T. Gorrick," dated April</p> <p>4 3, 2002, signed by Mashret Libowitz</p> <p>5 (ph), date stamped 4/25/02, Bates</p> <p>6 number D408 through 417.</p> <p>7 [The document was hereby marked</p> <p>8 as Defendant's Exhibit Y for</p> <p>9 identification, as of this date.]</p> <p>10 Q Do you recognize this document</p> <p>11 (handing)?</p> <p>12 A (Perusing.) Yes.</p> <p>13 Q What do you recognize it to be?</p> <p>14 A This is the award from Ms.</p> <p>15 Libowitz, arbitrator.</p> <p>16 Q In the second paragraph of this</p> <p>17 Opinion and Award, the arbitrator states</p> <p>18 that "hearings were held in this matter,</p> <p>19 the union was represented by Kenneth</p> <p>20 Paige, that you were present at the</p> <p>21 hearings and testified in your own</p> <p>22 behalf"; is that correct?</p> <p>23 A That is true.</p> <p>24 Q Did you testify under oath?</p> <p>25 A Yes.</p>
<p style="text-align: right;">151</p> <p>1 PHILBERT GORRICK</p> <p>2 take a short break at this point?</p> <p>3 [A short recess was taken from</p> <p>4 2:17 p.m. to 2:26 p.m.]</p> <p>5 Q Looking back at Defendant's</p> <p>6 Exhibit W, the income tax returns, on your</p> <p>7 2006 return, are there any deductions to</p> <p>8 payments for third-party service</p> <p>9 providers?</p> <p>10 A Not as of yet, because, as I</p> <p>11 said, I was unable to find a lot of</p> <p>12 documents to complete it. So as I said, I</p> <p>13 may have to re-file this. (Perusing.)</p> <p>14 No, it's not here.</p> <p>15 Q Again turning to the page where</p> <p>16 there is the 2005 comparison on fax page</p> <p>17 28 of 33 -- not 28 of 33. That is not the</p> <p>18 correct page, sorry. Its 11.</p> <p>19 A Okay.</p> <p>20 Q Fax page 11. Is there any</p> <p>21 deduction shown for tax year 2005 for</p> <p>22 payments to third-party service providers?</p> <p>23 A (Perusing.) No, not here.</p> <p>24 MS. GOETCHEUS: I would like to</p> <p>25 mark for identification as Defendant's</p>	<p style="text-align: right;">153</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Did witnesses present testimony</p> <p>3 under oath on your behalf?</p> <p>4 A Yes.</p> <p>5 Q Did witnesses present testimony</p> <p>6 under oath on behalf of the Transit</p> <p>7 Authority?</p> <p>8 A Yes.</p> <p>9 Q Did your representatives</p> <p>10 question Transit Authority witnesses?</p> <p>11 A Yes.</p> <p>12 Q Turning to the last page, on</p> <p>13 page ten, it states that "Mr. Gorrick has</p> <p>14 been unprepared for work since October 9,</p> <p>15 2000, because he did not report to work</p> <p>16 with authorized safety boots as required.</p> <p>17 The recommended penalty of dismissal shall</p> <p>18 be modified to a suspension to date."</p> <p>19 Following this decision, what happened</p> <p>20 next?</p> <p>21 A (Perusing.) I was directed to</p> <p>22 report on D0415, I was directed to report</p> <p>23 to Mr. Gus Rivera.</p> <p>24 Q And did you do so?</p> <p>25 A Yes.</p>

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1 PHILBERT GORRICK  
 2 Q Were you restored to Transit  
 3 employment?  
 4 A No.  
 5 Q You've got to answer verbally,  
 6 sir.  
 7 A No, no.  
 8 Q Were you issued a Transit  
 9 employee pass?  
 10 A No; it was taken from me.  
 11 Q In May 2002, were you issued a  
 12 Transit Authority pass?  
 13 A No.  
 14 MS. GOETCHEUS: I would like to  
 15 mark for identification as Defendant's  
 16 Exhibit Z a set of documents, Bates  
 17 numbered P332 through 54, and as  
 18 Defendant's Exhibit AA a G46 and  
 19 Restricted Work Assessment dated May  
 20 13, 2002. Bates number D1314-15. I  
 21 would like to mark as Defendant's  
 22 Exhibit BB a document dated January  
 23 22, 2003 from Gustavo Rivera to  
 24 Patrick McGreal, Bates stamped P467  
 25 through 503, and as Defendant's

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1 PHILBERT GORRICK  
 2 Q Does this refresh your  
 3 recollection that you were ultimately --  
 4 A Given a pass.  
 5 Q -- issued a pass in May of 2002?  
 6 A Yes.  
 7 Q Turning to Exhibit Z and Exhibit  
 8 AA, do you recognize these documents?  
 9 A (Perusing.) Yes.  
 10 Q And what do you recognize them  
 11 to be?  
 12 A That these are documents with  
 13 regard to my visits at the Medical  
 14 Assessment Center.  
 15 Q And is this your signature on  
 16 Exhibit AA, the document --  
 17 A Yes.  
 18 Q -- numbered 1314?  
 19 MR. LICHTEN: Objection, because  
 20 there are a bunch of signatures.  
 21 MS. GOETCHEUS: Well, where it  
 22 says "Employee's signature."  
 23 MR. LICHTEN: There's two of  
 24 them.  
 25 MS. GOETCHEUS: Yes.

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1 PHILBERT GORRICK  
 2 Exhibit CC, the same document dated  
 3 January 22, 2003 from Gustavo Rivera  
 4 to Patrick McGreal, Bates numbered  
 5 D1323 through 1352.  
 6 [The documents were hereby  
 7 marked as Defendant's Exhibits Z  
 8 through CC for identification, as of  
 9 this date.]  
 10 Q Turning first to the document,  
 11 the January 22nd memo, January 22, 2003  
 12 memo, if you would review the chronology  
 13 stated in the first two pages, I'd  
 14 appreciate it.  
 15 MR. LICHTEN: Are you talking  
 16 about either BB or CC?  
 17 MS. GOETCHEUS: Either BB or CC.  
 18 MR. LICHTEN: They're the same.  
 19 THE WITNESS: They're the same  
 20 thing?  
 21 MR. LICHTEN: Either one of  
 22 those.  
 23 THE WITNESS: Okay great, thank  
 24 you.  
 25 A (Perusing.) Okay.

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1 PHILBERT GORRICK  
 2 Q Okay, there are two employee  
 3 signatures. Are these your signatures?  
 4 A Yes.  
 5 Q In April, May and June of 2002,  
 6 were you working for Concord Family  
 7 Services?  
 8 A My business was engaged with  
 9 Concord Family Services, yes.  
 10 Q At this time, in May of 2002,  
 11 did you notify Concord Family Services  
 12 that you would be unavailable to work for  
 13 them?  
 14 A My business was engaged in  
 15 business with Concord Family Services.  
 16 There's no need to notify them.  
 17 Q Is that no, you did not notify  
 18 Concord Family Services that you would be  
 19 unavailable to work for them?  
 20 A Please rephrase the question.  
 21 Q I asked you did you notify  
 22 Concord Family Services that you would be  
 23 unavailable to work for them in this  
 24 period in May of 2002 --  
 25 A No.

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<p style="text-align: right;">158</p> <p>1 PHILBERT GORRICK</p> <p>2 Q -- and if not, why not?</p> <p>3 A Because my business is engaged</p> <p>4 with Concord Family Services. I am not</p> <p>5 personally attached to Concord Family</p> <p>6 Services. My business is involved with</p> <p>7 Concord Family Services; not me.</p> <p>8 Q And how did you plan to provide</p> <p>9 services to Concord Family Services had</p> <p>10 Transit returned you to duty in or about</p> <p>11 May 2002?</p> <p>12 A In the same way as I had 1999,</p> <p>13 1996, 1998.</p> <p>14 Q However, from October 2000 until</p> <p>15 May of 2002, you'd been providing services</p> <p>16 in a different manner; is that correct?</p> <p>17 A No.</p> <p>18 Q After you were given a pass,</p> <p>19 were you examined by the Occupational</p> <p>20 Health Service department on May 13, 2002?</p> <p>21 A Yes.</p> <p>22 Q Did the doctor or the Medical</p> <p>23 Services department refer you to a</p> <p>24 vascular specialist, Dr. Svahn, at this</p> <p>25 time?</p>	<p style="text-align: right;">160</p> <p>1 PHILBERT GORRICK</p> <p>2 A That's correct.</p> <p>3 MS. GOETCHEUS: I would like to</p> <p>4 mark for identification as Defendant's</p> <p>5 Exhibit DD a letter from Dr. Jennifer</p> <p>6 Svahn to Gustave Rivera dated May 22,</p> <p>7 2002, Bates number P378 through 79.</p> <p>8 [The document was hereby marked</p> <p>9 as Defendant's Exhibit DD for</p> <p>10 identification, as of this date.]</p> <p>11 Q Were you examined by Dr. Svahn</p> <p>12 on or about May 22, 2002?</p> <p>13 A Yes.</p> <p>14 Q Did she provide a copy of this</p> <p>15 letter to you --</p> <p>16 A Yes.</p> <p>17 Q -- at the time of that</p> <p>18 appointment?</p> <p>19 A No.</p> <p>20 Q When did you receive the letter?</p> <p>21 A A few -- a week later, in the</p> <p>22 mail.</p> <p>23 Q Following your evaluation -- at</p> <p>24 what address did you receive the letter?</p> <p>25 A Via the union.</p>
<p style="text-align: right;">159</p> <p>1 PHILBERT GORRICK</p> <p>2 A Yes.</p> <p>3 Q Did the Medical Services</p> <p>4 department give you a revisit date at the</p> <p>5 time of your visit on May 13, 2000?</p> <p>6 A Yes.</p> <p>7 Q And what was that date?</p> <p>8 MR. LICHTEN: 2000?</p> <p>9 MS. GOETCHEUS: I'm sorry, 2002.</p> <p>10 A 2002?</p> <p>11 Q 2002, I stand corrected.</p> <p>12 A I can't remember, but it should</p> <p>13 be here (indicating),</p> <p>14 Q If you look at 1314, down toward</p> <p>15 the lower part of the page -- that's</p> <p>16 Exhibit AA.</p> <p>17 A Yes.</p> <p>18 Q Go up, it's on the right-hand</p> <p>19 side. It says "Revisit date."</p> <p>20 MR. LICHTEN: (indicating.)</p> <p>21 A (Perusing.) Okay, that would be</p> <p>22 the 3rd of June.</p> <p>23 Q 2002?</p> <p>24 A 2002, yes.</p> <p>25 Q Is that correct?</p>	<p style="text-align: right;">161</p> <p>1 PHILBERT GORRICK</p> <p>2 Q Following your evaluation by Dr.</p> <p>3 Svahn, what did you do?</p> <p>4 A Reported back to Dr. Spiegel.</p> <p>5 Q Did you return to the medical</p> <p>6 department on the date of June 1, 2002?</p> <p>7 A I think I did, yes.</p> <p>8 Q Do you --</p> <p>9 A I can't remember.</p> <p>10 MS. GOETCHEUS: I would like to</p> <p>11 mark for identification as Defendant's</p> <p>12 Exhibit EE a letter dated July 2, 2002</p> <p>13 from D. Smith to Gustave Rivera, Bates</p> <p>14 number P417.</p> <p>15 [The document was hereby marked</p> <p>16 as Defendant's Exhibit EE for</p> <p>17 identification, as of this date.]</p> <p>18 Q Turning back to Defendant's</p> <p>19 Exhibit BB, looking at the bottom of --</p> <p>20 well, it's labeled page three but it's the</p> <p>21 second page of the exhibit, it's a fax</p> <p>22 page number at the top, and continuing on</p> <p>23 to the next page --</p> <p>24 A (Perusing.) Yes.</p> <p>25 Q -- does this refresh your</p>



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1 PHILBERT GORRICK  
 2 recollection as to whether you appeared  
 3 for the scheduled revisit date of June 3,  
 4 2002?  
 5 A You received the defense of what  
 6 led up to me not returning there on June  
 7 the 3rd.  
 8 Q I'm sorry, what are you  
 9 referring to? I'm not sure where you are.  
 10 A Okay, if you read the  
 11 information prior to the issuance of the  
 12 pass, I was sent to 1250 Broadway to  
 13 collect a pass.  
 14 Q But that was in early May. That  
 15 was prior to your going to the MAC on May  
 16 13, 2000 --  
 17 A All the schedules that were here  
 18 (indicating), if I was scheduled to go, I  
 19 went to, so this is not accurate.  
 20 Q It is your testimony that on  
 21 June 12, 2002, you went to the MAC for a  
 22 revisit?  
 23 A No, no, I am saying there had to  
 24 be some reason why I didn't report if I  
 25 was scheduled for June 3, 2002.

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1 PHILBERT GORRICK  
 2 letter (handing)?  
 3 A (Perusing.) Yes.  
 4 Q Did you assist in its  
 5 preparation?  
 6 A Yes.  
 7 Q What does it mean where it  
 8 states "Please be further advised that Mr.  
 9 Gorrick is prepared to work in the  
 10 capacity he was hired to work on July 29,  
 11 1991. His physical health condition is  
 12 the same as it was then"?  
 13 A Nothing has -- it meant that  
 14 nothing has changed for me. Physically,  
 15 nothing has changed for me. I am the same  
 16 person I was then, in 1991, as I am now.  
 17 And anything between then, I was always  
 18 the same person. Nothing has changed for  
 19 me physically that would impede me from  
 20 doing my job.  
 21 Q But it does not mean that you  
 22 could wear the required safety boots?  
 23 A It doesn't mean that I was  
 24 wearing the required safety boots when I  
 25 got hired.

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1 PHILBERT GORRICK  
 2 Q Well, we've looked at the G46  
 3 and you saw that the revisit date was June  
 4 3rd, correct?  
 5 A Where is the G46?  
 6 Q It was AA, D1314.  
 7 A (Perusing.) No, I didn't show  
 8 up. I think I -- I'm not quite sure why I  
 9 didn't show up, but I didn't show up at  
 10 the June 3rd one.  
 11 Q Right. And you next showed up  
 12 on July 1st; that is correct?  
 13 A I showed up on July 1st, yes.  
 14 Q And on July 1st, as it states on  
 15 page three of five on P469 in Exhibit BB,  
 16 is it correct that you and "Mr. Donovan  
 17 Smith came to Gus Rivera's office for a  
 18 G46 to comply with the MAC revisit  
 19 appointment after leaving labor relations  
 20 relating to his discipline for this  
 21 absence without leave"?  
 22 A Yes.  
 23 Q And turning to Exhibit EE, which  
 24 is dated 7/2/2002, from D. Smith to  
 25 Mr. Gustavo Rivera, do you recognize this

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1 PHILBERT GORRICK  
 2 MR. LICHTEN: Just listen to the  
 3 question.  
 4 Q No, no, this letter states  
 5 nothing with relation to your capacity to  
 6 wear the required safety boots; is that  
 7 correct?  
 8 A No, ma'am, this letter doesn't  
 9 say anything.  
 10 Q Turning to Defendant's Exhibit  
 11 BB, which was marked earlier, do you  
 12 recognize this document?  
 13 A Yes.  
 14 Q What do you recognize it to be?  
 15 A This is from Gus Rivera to Pat  
 16 McGreal.  
 17 Q When did you receive it?  
 18 A Sometime during the course of an  
 19 arbitration hearing.  
 20 Q With respect to handwritten  
 21 notes on pages Bates stamped 469 and 70,  
 22 the arrows, whose notes are these?  
 23 A I don't know.  
 24 Q They're not yours?  
 25 A Oh, no.

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<p style="text-align: right;">166</p> <p>1 PHILBERT GORRICK</p> <p>2 Q In the entire period March 2000</p> <p>3 to January 2003, did you ever obtain</p> <p>4 safety shoes complying with the Transit</p> <p>5 requirements that you were willing and</p> <p>6 able to wear?</p> <p>7 A Can you repeat that?</p> <p>8 Q In the entire period from March</p> <p>9 2000 to January 2003, did you ever obtain</p> <p>10 safety shoes compliant with the Transit</p> <p>11 requirements that you were willing and</p> <p>12 able to wear?</p> <p>13 A I obtained shoes -- I obtained</p> <p>14 shoes that's in compliance with the</p> <p>15 Transit Authority requirements, but I</p> <p>16 could not medically wear them.</p> <p>17 Q When did you obtain shoes that</p> <p>18 were compliant with Transit requirements?</p> <p>19 A At some point during</p> <p>20 arbitrator's hearing, I was required to</p> <p>21 see what defects were by trying an</p> <p>22 alternative shoe, a composite shoe, as</p> <p>23 Mr. Rivera was referring to, and the</p> <p>24 doctor says I shouldn't wear those either.</p> <p>25 Q When was that?</p>	<p style="text-align: right;">168</p> <p>1 PHILBERT GORRICK</p> <p>2 to me at an arbitrator hearing, saying</p> <p>3 that Dr. Svahn reneged on her first</p> <p>4 opinion as saying that I was able to wear</p> <p>5 the shoes providing the shoes fell below</p> <p>6 my ankles or well above my knee or -- just</p> <p>7 below my knee or right above my ankle,</p> <p>8 something to that effect, something that</p> <p>9 was done without my permission or consent</p> <p>10 by Dr. Mackenzie (ph) or the chief doctor,</p> <p>11 medical doctor, in the MAC Center. So</p> <p>12 that discovery came.</p> <p>13 I then went, got the shoes that</p> <p>14 she suggested without looking at me that</p> <p>15 could wear, purchased those shoes and took</p> <p>16 it to her office. And this is why, I</p> <p>17 guess, that (indicating) was generated.</p> <p>18 Q Did the Transit Authority direct</p> <p>19 you to visit Dr. Svahn?</p> <p>20 A The first time, and an opinion</p> <p>21 was given that said I couldn't wear the</p> <p>22 shoes. And the second opinion was</p> <p>23 solicited from her and didn't involve me</p> <p>24 in that process.</p> <p>25 Q I'm asking you in about June</p>
<p style="text-align: right;">167</p> <p>1 PHILBERT GORRICK</p> <p>2 A Sometime in 2003.</p> <p>3 Q Are you sure it was in 2003?</p> <p>4 A May have. I don't -- it's a lot</p> <p>5 of things happened. I'm not sure.</p> <p>6 Q Was it in connection with a</p> <p>7 revisit to Dr. Svahn that you obtained</p> <p>8 those shoes?</p> <p>9 A Yes.</p> <p>10 MS. GOETCHEUS: I would like to</p> <p>11 mark for identification as Defendant's</p> <p>12 Exhibit FF a letter from Dr. Jennifer</p> <p>13 Svahn to Kenneth Paige, undated but</p> <p>14 with a June 16, 2004 fax line, that is</p> <p>15 Bates numbered D2359.</p> <p>16 [The document was hereby marked</p> <p>17 as Defendant's Exhibit FF for</p> <p>18 identification, as of this date.]</p> <p>19 Q Did you visit Dr. Svahn in or</p> <p>20 about June of 2004?</p> <p>21 A Yes.</p> <p>22 Q What led you to visit Dr. Svahn</p> <p>23 in or about June 2004?</p> <p>24 A It was based on a letter, an</p> <p>25 arbitrary letter, that was only presented</p>	<p style="text-align: right;">169</p> <p>1 PHILBERT GORRICK</p> <p>2 2004, did the Transit Authority direct you</p> <p>3 to see Dr. Svahn?</p> <p>4 A On June 2004?</p> <p>5 Q Yes.</p> <p>6 A I wouldn't know if I was</p> <p>7 directed by the Transit Authority. But</p> <p>8 when the discussion of alternative</p> <p>9 composite shoe came up, it was suggested</p> <p>10 by both party members, the arbitrator, the</p> <p>11 TA lawyer, the union representative, my</p> <p>12 lawyer and the Transit Authority lawyer,</p> <p>13 prosecutor in the case, that I should go</p> <p>14 back and see the doctor and show her the</p> <p>15 shoes that we're talking about that she</p> <p>16 was recommending.</p> <p>17 Q Mr. Paige was the union lawyer;</p> <p>18 is that correct?</p> <p>19 A Mr. Paige was the union lawyer,</p> <p>20 yes.</p> <p>21 Q Is there any indication that it</p> <p>22 was sent to the Transit Authority?</p> <p>23 A No. Not here (indicating), no.</p> <p>24 Q Did you provide a copy of this</p> <p>25 letter to the Transit Authority?</p>

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1 PHILBERT GORRICK  
 2 A Yes.  
 3 Q When?  
 4 A I think at the very next  
 5 hearing, we provided it right there and  
 6 then to them.  
 7 MS. GOETCHEUS: You've made  
 8 reference to an additional letter by  
 9 Dr. Svahn.  
 10 I would like to mark for  
 11 identification two documents as  
 12 Defendant's Exhibit GG. One is a  
 13 letter Bates stamped 369, dated  
 14 November 4, 2002, from Dr. Svahn to  
 15 Dr. Alexander, and the second is a  
 16 letter dated 12/9/2002, Bates stamped  
 17 371, from Donovan Smith to Gustave  
 18 Rivera.  
 19 [The document was hereby marked  
 20 as Defendant's Exhibit GG for  
 21 identification, as of this date.]  
 22 Q Turning first to the document  
 23 Bates number 369, Dr. Svahn's letter dated  
 24 November 4, 2002, is this the letter  
 25 you're referring to, that you have

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1 PHILBERT GORRICK  
 2 Q Who did you review it with?  
 3 A Dr. Svahn.  
 4 Q Was Dr. Svahn your personal  
 5 letter?  
 6 A She gave me this letter, this  
 7 documentation (indicating).  
 8 Q That letter was signed in 2004;  
 9 is that correct?  
 10 A This letter is -- yes, it's  
 11 2004. I went back to Dr. Svahn with  
 12 this --  
 13 Q In 2004; is that correct?  
 14 A In 2004, yes.  
 15 Q That was more than a year  
 16 and-a-half after the date of this letter;  
 17 is that not correct?  
 18 A Yes.  
 19 Q In fact, in 2002, Dr. Svahn was  
 20 the consultant to the Transit Authority;  
 21 is that not right?  
 22 A Consult -- no, she was  
 23 independent consultant.  
 24 Q What leads you to believe that?  
 25 A Arbitrator's opinion.

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1 PHILBERT GORRICK  
 2 referred to in your testimony?  
 3 A (Perusing.) Yes.  
 4 Q And looking at the letter dated  
 5 December 9, 2002 from Donovan Smith to  
 6 Gustave Rivera, have you seen this letter  
 7 before?  
 8 A (Perusing.) Yes. I've seen it  
 9 now, yes.  
 10 Q And what do you recognize it to  
 11 be?  
 12 A That we were questioning the  
 13 process of how this was obtained  
 14 (indicating).  
 15 Q I'm sorry?  
 16 A Mr. Donovan Smith was  
 17 questioning the motive of how this second  
 18 doctor's letter (indicating) was obtained.  
 19 Q Well, I believe it says  
 20 "Therefore, after receiving a copy of the  
 21 medical opinion clarification received by  
 22 Transit Occupational Health Services, Mr.  
 23 Gorrick will review that documentation  
 24 with his personal doctor."  
 25 A Yes.

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1 PHILBERT GORRICK  
 2 Q I'm sorry?  
 3 A The arbitrator's opinion, the  
 4 first arbitrator's opinion. The opinion  
 5 of the first arbitrator's award.  
 6 Q Was Dr. Svahn retained jointly  
 7 by the Transit Authority and the union in  
 8 2002?  
 9 A I don't understand that.  
 10 Q In 2002, were you referred to  
 11 Dr. Svahn by occupational health services?  
 12 A I was -- the mechanism for  
 13 referring me to Dr. Svahn, I don't -- I  
 14 have no control over, but I understand  
 15 from the arbitrator that the opinion of  
 16 the doctor is independent of Transit  
 17 Authority and my doctor's -- my private  
 18 doctor's medical opinion. So I would  
 19 assume that that cost would be shared  
 20 between the union and the Transit  
 21 Authority. I can't safely say who was  
 22 ultimately responsible. I'm saying that  
 23 my impression was that was an independent  
 24 vascular specialist.  
 25 Q And then you testified when you

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<p style="text-align: right;">174</p> <p>1 PHILBERT GORRICK  2 saw her in 2004, you saw Dr. Svahn as your  3 personal physician?  4 A Yes, because after she treated  5 me I decided to see her as a personal  6 physician. She offered to help me.  7 Q In 2004?  8 A 2004, yes.  9 Q You viewed her as your personal  10 physician at that time?  11 A Yes. I said she's treated me,  12 she could help me.  13 Q Did you pay the cost of the  14 visit in 2004?  15 A In 2004? Yes, I paid part of  16 the cost.  17 Q Personally?  18 A Personally, yes.  19 Q Who paid the remainder of the  20 cost?  21 A I don't know.  22 MS. GOETCHEUS: I would like to  23 mark for identification as Defendant's  24 Exhibit HH two copies of a document  25 entitled "Step Two Abandonment</p>	<p style="text-align: right;">176</p> <p>1 PHILBERT GORRICK  2 to the union hall address?  3 A Yes.  4 Q Why had you done so?  5 A Since I would guarantee delivery  6 of my mail, because I was fluid, I wasn't  7 living in any fixed space on the board. I  8 couldn't give them an address I would be  9 at at any time, so I thought the union  10 would be the best place. I would be  11 notified when notices are there for me.  12 MS. GOETCHEUS: I would like to  13 mark for identification as Defendant's  14 Exhibit II an arbitration decision  15 dated September 29, 2003, Bates  16 stamped 2964 through 72. Actually,  17 I'll correct the date. Apparently  18 it's September 28th, not September  19 29th.  20 [The document was hereby marked  21 as Defendant's Exhibit II for  22 identification, as of this date.]  23 Q Do you recognize this document  24 (handing)?  25 A (Perusing.) Yes, I do.</p>
<p style="text-align: right;">175</p> <p>1 PHILBERT GORRICK  2 Hearing," erroneously dated -- I  3 believe erroneously dated May 9, 2002,  4 signed by Seth Blough (ph), Bates  5 stamped P462 through 65, the second  6 copy of which is stamped "Received May  7 9, 2003, TWU grievance office."  8 [The document was hereby marked  9 as Defendant's Exhibit HH for  10 identification, as of this date.]  11 Q Do you recognize these documents  12 (handing)?  13 A (Perusing.) Yes.  14 Q What do you recognize them to  15 be?  16 A That I failed to make a -- show  17 up to a step one hearing, an abandonment  18 hearing.  19 Q It states that -- in the middle  20 of the entry called "Management position,"  21 it states "Grievant had previously  22 requested that all information be sent to  23 him at the TWU Local 100 union hall  24 address." Is it correct that you had  25 requested that all mailings to you be sent</p>	<p style="text-align: right;">177</p> <p>1 PHILBERT GORRICK  2 Q What do you recognize it to be?  3 A This is an award for the second  4 arbitration hearing on the abandonment  5 case.  6 Q Is it the second arbitration on  7 the abandonment case?  8 A No, no, second -- okay, this is  9 second of three arbitration hearings.  10 This is the one on the abandonment case.  11 Q Right. And the abandonment case  12 was based on -- the basic disciplinary  13 action was the February 2003 discipline  14 relating to the shoes; is that correct?  15 A Yes.  16 Q Did you testify at this hearing?  17 A Oh, yes.  18 Q And you testified under oath?  19 A Yes.  20 Q On page two the decision states  21 "Gorrick claims that in March and February  22 2003, he was homeless."  23 A Yes.  24 Q "He asserts that he was living  25 in no fixed place. He states that he</p>

<p style="text-align: right;">178</p> <p>1 PHILBERT GORRICK</p> <p>2 lived in his car and friends' homes and</p> <p>3 other transient situations." Is this</p> <p>4 true?</p> <p>5 A Yes, ma'am.</p> <p>6 Q And did you so testify?</p> <p>7 A Yes, ma'am.</p> <p>8 Q And how did you happen to be</p> <p>9 homeless in March and February 2003?</p> <p>10 A I had a dispute with my wife and</p> <p>11 I was removed from my home.</p> <p>12 Q Were you providing services to</p> <p>13 Concord Family Services at this time?</p> <p>14 A My business was, yes.</p> <p>15 Q Were you being paid at the rate</p> <p>16 of seventy dollars per hour for the</p> <p>17 services you were providing to Concord</p> <p>18 Family Services at this time?</p> <p>19 A My business was.</p> <p>20 Q Did you receive more than</p> <p>21 \$100,000 in payments from Concord Family</p> <p>22 Services in 2003?</p> <p>23 A On behalf of my business, yes.</p> <p>24 Q Had you received more than</p> <p>25 \$100,000 in payments from Concord Family</p>	<p style="text-align: right;">180</p> <p>1 PHILBERT GORRICK</p> <p>2 MS. GOETCHEUS: I would like to</p> <p>3 mark for identification as Defendant's</p> <p>4 Exhibit JJ an arbitration decision</p> <p>5 dated July 19, 2006, Bates stamped</p> <p>6 D2190 through 2201.</p> <p>7 [The document was hereby marked</p> <p>8 as Defendant's Exhibit JJ for</p> <p>9 identification, as of this date.]</p> <p>10 Q Do you recognize this document</p> <p>11 (handing)?</p> <p>12 A (Perusing.) Yes.</p> <p>13 Q What do you recognize it to be?</p> <p>14 A This is an award, a third award</p> <p>15 from Ms. Libowitz, in regards to the</p> <p>16 shoes.</p> <p>17 Q It's not the third award from</p> <p>18 Ms. Libowitz. She was not the arbitrator</p> <p>19 in the previous arbitrations, was she?</p> <p>20 A Oh, I'm sorry.</p> <p>21 Q If you look at previous</p> <p>22 arbitration --</p> <p>23 A Previous, I'm sorry.</p> <p>24 Q -- she was the arbitrator in the</p> <p>25 first arbitration and in this third</p>
<p style="text-align: right;">179</p> <p>1 PHILBERT GORRICK</p> <p>2 Services in 2002?</p> <p>3 A On behalf of my business, yes.</p> <p>4 Q The effect of this decision was</p> <p>5 to reinstate your appeal of your discharge</p> <p>6 following your reinstatement in your 2003</p> <p>7 discharge following your reinstatement in</p> <p>8 2002; is that correct?</p> <p>9 A I don't understand that.</p> <p>10 Q The effect of this decision was</p> <p>11 to reinstate your appeal of the</p> <p>12 disciplinary action, the disciplinary</p> <p>13 discharge -- of your disciplinary</p> <p>14 discharge in 2003 that followed your</p> <p>15 reinstatement in 2002; is that correct?</p> <p>16 A I don't quite get it. It sounds</p> <p>17 confusing to me.</p> <p>18 Q Let me take out a clause and go</p> <p>19 back.</p> <p>20 A All right.</p> <p>21 Q The effect of this decision was</p> <p>22 to reinstate your appeal of your 2003</p> <p>23 discharge; is that correct?</p> <p>24 A Yes.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">181</p> <p>1 PHILBERT GORRICK</p> <p>2 arbitration; is that correct?</p> <p>3 A Yes.</p> <p>4 Q Following this award, did there</p> <p>5 come a time when you reported to Transit</p> <p>6 for duty?</p> <p>7 A Yes.</p> <p>8 Q Where did you report?</p> <p>9 A 1114 Atlantic Avenue.</p> <p>10 Q And what happened there?</p> <p>11 A No work available.</p> <p>12 Q And what happened then?</p> <p>13 A Superintendent told me there was</p> <p>14 no work available.</p> <p>15 Q Were you given a G46?</p> <p>16 A Not at 1114 Atlantic Avenue.</p> <p>17 Q Were you referred to get a G46?</p> <p>18 A Yes.</p> <p>19 Q From 1114 -- isn't that the</p> <p>20 right numbers?</p> <p>21 A 1114, yes.</p> <p>22 Q Were you referred somewhere to</p> <p>23 get a G46?</p> <p>24 A Yes; I went to 2 Parkway.</p> <p>25 Q That same day?</p>

<p style="text-align: right;">182</p> <p>1 PHILBERT GORRICK</p> <p>2 A Yes.</p> <p>3 Q And were you given a G46?</p> <p>4 A Yes.</p> <p>5 Q Looking at Exhibit 1, the EEOC</p> <p>6 charge --</p> <p>7 MR. LICHTEN: Exhibit A?</p> <p>8 MS. GOETCHEUS: A. In my mind</p> <p>9 it's numbered, but --</p> <p>10 Q Okay. Is this visit to 1114</p> <p>11 Atlantic Avenue what you're referring to</p> <p>12 as occurring on, I believe, August 8th,</p> <p>13 August 9th?</p> <p>14 MR. LICHTEN: 8th. August 8th.</p> <p>15 Q Is that the event that you're</p> <p>16 referring to in your EEOC charge?</p> <p>17 A Yes.</p> <p>18 Q That is what you're referring to</p> <p>19 is "The Authority refused to instate me</p> <p>20 under any circumstances"?</p> <p>21 A Yes.</p> <p>22 Q And, in fact, you had filed this</p> <p>23 charge prior to your going to the medical</p> <p>24 department; is that correct?</p> <p>25 A I can't -- I can't remember</p>	<p style="text-align: right;">184</p> <p>1 PHILBERT GORRICK</p> <p>2 8/15/2006, Bates stamped D298.</p> <p>3 [The document was hereby marked</p> <p>4 as Defendant's Exhibit KK for</p> <p>5 identification, as of this date.]</p> <p>6 Q Do you recognize this document</p> <p>7 (handing)?</p> <p>8 A (Perusing.) Yes.</p> <p>9 Q And what do you recognize it to</p> <p>10 be?</p> <p>11 A This is a letter from Pete</p> <p>12 Ingoglia to Dr. Ganser to be seeing Dr.</p> <p>13 Ganser at the MAC.</p> <p>14 Q On what date?</p> <p>15 A This is the 15th. August 15th.</p> <p>16 Q And does that refresh your</p> <p>17 recollection --</p> <p>18 A Yes, yes.</p> <p>19 Q -- that you had filed your</p> <p>20 charge with the EEOC before you had gone</p> <p>21 to the medical department?</p> <p>22 A Yes.</p> <p>23 MS. GOETCHEUS: I would like to</p> <p>24 mark for identification as Defendant's</p> <p>25 Exhibit LL a Restricted Work</p>
<p style="text-align: right;">183</p> <p>1 PHILBERT GORRICK</p> <p>2 that.</p> <p>3 Q Well, it's filed on the 9th of</p> <p>4 August. Did you go to the medical</p> <p>5 department immediately after going to 1114</p> <p>6 Atlantic Avenue?</p> <p>7 A This is not -- let me clarify</p> <p>8 something. At some point prior to the 8th</p> <p>9 of August, a couple days before, I was</p> <p>10 asked -- I went to the MAC. A Dr. Ganser</p> <p>11 gave me a letter addressed to Dr. Svahn,</p> <p>12 asking that I provide a detailed -- she</p> <p>13 provide a detailed prognosis of my medical</p> <p>14 condition.</p> <p>15 Q I don't believe you got the</p> <p>16 chronology right. Let's get some</p> <p>17 documents.</p> <p>18 A Of course. It's kind of</p> <p>19 confusing, but --</p> <p>20 MR. LICHTEN: All right.</p> <p>21 Q We'll get it straight on the</p> <p>22 chronology.</p> <p>23 MS. GOETCHEUS: I would like to</p> <p>24 mark for identification as Defendant's</p> <p>25 Exhibit KK a Transit Form G46 dated</p>	<p style="text-align: right;">185</p> <p>1 PHILBERT GORRICK</p> <p>2 Assessment form dated 8/15/2006, Bates</p> <p>3 stamped D302, with an attached letter,</p> <p>4 Bates D308, dated 8/15/06.</p> <p>5 [The documents were hereby</p> <p>6 marked as Defendant's Exhibit LL for</p> <p>7 identification, as of this date.]</p> <p>8 Q Do you recognize this document?</p> <p>9 A Yes.</p> <p>10 Q What do you recognize it to be?</p> <p>11 A This is Dr. Ganser's letter</p> <p>12 addressed to my doctor requesting to</p> <p>13 obtain my medical condition.</p> <p>14 Q Did Dr. Ganser give you any</p> <p>15 instructions?</p> <p>16 A No.</p> <p>17 Q Did he ask you to obtain</p> <p>18 information from any specific physician?</p> <p>19 A No.</p> <p>20 Q Had you taken any medical</p> <p>21 documentation, any recent medical</p> <p>22 documentation, to this exam with Dr.</p> <p>23 Ganser on August 15, 2006?</p> <p>24 A The most recent I had, yes, I</p> <p>25 gave him.</p>

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1 PHILBERT GORRICK  
 2 Q On August 15, 2006?  
 3 A I'm missing -- I'm missing the  
 4 dates. You're asking me on my return to  
 5 Dr. Ganser or you're talking prior to  
 6 going to Dr. Ganser?  
 7 Q No, I'm talking on 8/15, on this  
 8 G46.  
 9 A Yes, I had given Dr. Ganser all  
 10 the medical reports I had regarding my  
 11 legs, and that would be the reports I got  
 12 from Dr. Svahn and the MAC doctors.  
 13 Q There was nothing more recent  
 14 than the 2004 report from Dr. Svahn?  
 15 A No.  
 16 Q You didn't provide anything more  
 17 recent than the Dr. Svahn 2004 letter?  
 18 A No.  
 19 Q Did you provide Dr. Svahn's 2004  
 20 letter to Dr. Ganser?  
 21 A Oh, yes, he had that. And just  
 22 for the record, the medical opinion of Dr.  
 23 Svahn at the arbitrator's hearing.  
 24 Q What do you mean by "the medical  
 25 opinion of Dr. Svahn at the arbitrator's

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1 PHILBERT GORRICK  
 2 A (Perusing.) Yes.  
 3 Q What do you recognize it to be?  
 4 A It's a notice telling me that  
 5 there's no work available.  
 6 Q And is this your signature --  
 7 A Yes.  
 8 Q -- on the employee  
 9 acknowledgement?  
 10 A Yes.  
 11 Q And the reexamination, there's  
 12 an entry for a reexamination of  
 13 "9/19/2006." What did you recognize that  
 14 to be? Do you recognize what that is?  
 15 A That I need to go -- return to  
 16 the MAC.  
 17 Q Prior to the reexamination, did  
 18 you visit Dr. Svahn? Prior to this  
 19 9/19/2006 revisit date, did you visit Dr.  
 20 Svahn?  
 21 A Oh, no, oh, no. I visited Dr.  
 22 Svahn -- the last visit to Dr. Svahn is  
 23 when I was instructed by Dr. Ganser.  
 24 Q On 8/16?  
 25 A Yes.

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1 PHILBERT GORRICK  
 2 hearing"?  
 3 A Dr. Svahn testified at the  
 4 arbitrator's hearing.  
 5 Q How did you provide that  
 6 testimony?  
 7 A That was written into the award.  
 8 Q So you provided a copy of the  
 9 award?  
 10 A Yes, which he already had.  
 11 MS. GOETCHEUS: I would like to  
 12 mark for identification as Defendant's  
 13 Exhibit MM a Transit Form G46 dated  
 14 August 16, 2006, Bates stamped 294. I  
 15 would also like to mark for  
 16 identification as Defendant's Exhibit  
 17 NN a memo from Steven Perez to General  
 18 Superintendent Santarpia dated August  
 19 16, 2006, Bates stamped 1279.  
 20 [The document were hereby marked  
 21 as Defendant's Exhibits MM and NN for  
 22 identification, as of this date.]  
 23 Q Turning first to Defendant's  
 24 Exhibit NN, do you recognize this document  
 25 (handing)?

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1 PHILBERT GORRICK  
 2 Q And prior to returning to the  
 3 MAC on 9/19/2006, did you visit Dr. Svahn?  
 4 A Can't remember.  
 5 MS. GOETCHEUS: I would like to  
 6 mark for identification as Defendant's  
 7 Exhibit OO a letter from Dr. Svahn to  
 8 Dr. Ganser dated September 5, 2006,  
 9 Bates stamped P388 and 389.  
 10 [The document was hereby marked  
 11 as Defendant's Exhibit OO for  
 12 identification, as of this date.]  
 13 Q Do you recognize this document  
 14 (handing)?  
 15 A (Perusing.) Yes.  
 16 Q What do you recognize it to be?  
 17 A A letter from Dr. Svahn to Dr.  
 18 Ganser.  
 19 Q And did you visit Dr. Svahn on  
 20 or about September 5, 2006?  
 21 A Yes.  
 22 Q Did Dr. Svahn give you a copy of  
 23 this letter?  
 24 A I got one subsequent, yes.  
 25 Q She mailed you a copy of this

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<p style="text-align: right;">190</p> <p>1 PHILBERT GORRICK</p> <p>2 letter? You say you got one subsequently?</p> <p>3 A Yes.</p> <p>4 Q How did you get one</p> <p>5 subsequently?</p> <p>6 A I may have revisited her office</p> <p>7 or she had mailed -- I think she had me</p> <p>8 visit her office.</p> <p>9 Q Turning back to Exhibit MM, the</p> <p>10 G46 dated 6/15/06, do you recognize this</p> <p>11 document?</p> <p>12 A Yes.</p> <p>13 Q What do you recognize it to be?</p> <p>14 A Its a G46 that I need to take to</p> <p>15 the MAC.</p> <p>16 Q And did you, in fact, take it to</p> <p>17 the MAC on 9/19/2006?</p> <p>18 A Yes.</p> <p>19 Q And what was the result of that</p> <p>20 examination?</p> <p>21 A It's based on this MAC</p> <p>22 (indicating), the decision that they would</p> <p>23 notify me with regard to my</p> <p>24 reclassification.</p> <p>25 Q You were found to be "restricted</p>	<p style="text-align: right;">192</p> <p>1 PHILBERT GORRICK</p> <p>2 informed by people in the personnel</p> <p>3 department, labor relations.</p> <p>4 MS. GOETCHEUS: I would like to</p> <p>5 mark for identification as Defendant's</p> <p>6 Exhibit PP a memo from Steven Perez to</p> <p>7 General Superintendent Santarpia dated</p> <p>8 9/19/2006, Bates stamped D1276.</p> <p>9 [The document was hereby marked</p> <p>10 as Defendant's Exhibit PP for</p> <p>11 identification, as of this date.]</p> <p>12 Q Do you recognize this document</p> <p>13 (handing)?</p> <p>14 A (Perusing.) Yes.</p> <p>15 Q What do you recognize it to be?</p> <p>16 A A restricted duty, no work</p> <p>17 available, from Mr. Santarpia.</p> <p>18 Q And is this your signature?</p> <p>19 A Yes.</p> <p>20 Q And what was the basis of your</p> <p>21 protest? Did you write the "under</p> <p>22 protest" there?</p> <p>23 A Yes; that I was not sick and I</p> <p>24 needed my job. I wasn't sick.</p> <p>25 Q Subsequent to your receiving the</p>
<p style="text-align: right;">191</p> <p>1 PHILBERT GORRICK</p> <p>2 work, permanent"?</p> <p>3 A Permanent, yes.</p> <p>4 Q For six months, and at that</p> <p>5 point you were eligible for</p> <p>6 reclassification; is that correct? Is</p> <p>7 that what your testimony is?</p> <p>8 A No.</p> <p>9 Q What was your testimony?</p> <p>10 A My testimony is that it was</p> <p>11 restricted permanently.</p> <p>12 MS. GOETCHEUS: Off the record.</p> <p>13 [Discussion held off the record</p> <p>14 during which time the requested</p> <p>15 portion of the record was read.]</p> <p>16 Q Did Dr. Ganser discuss</p> <p>17 reclassification with you at this</p> <p>18 examination on September 19, 2006?</p> <p>19 A No. I was pretty upset and he</p> <p>20 told me he would not discuss it with me, I</p> <p>21 need to discuss it with the department</p> <p>22 people at the personnel department.</p> <p>23 Q I'm sorry, he said he had to</p> <p>24 discuss it?</p> <p>25 A No, no, he said I would be</p>	<p style="text-align: right;">193</p> <p>1 PHILBERT GORRICK</p> <p>2 "restricted duty, no work available," did</p> <p>3 you receive notice to appear for an</p> <p>4 examination for reclassification?</p> <p>5 A I -- I received notice.</p> <p>6 Q And approximately when was that?</p> <p>7 A I can't remember the date.</p> <p>8 Q Turning back to Exhibit A, on</p> <p>9 Exhibit A, the EEOC charge, you gave an</p> <p>10 address; is that correct?</p> <p>11 A Yes.</p> <p>12 Q On Highland Avenue; is that</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q That is, in fact, your</p> <p>16 residence; is that correct?</p> <p>17 A This is where I'm living now,</p> <p>18 yes.</p> <p>19 Q And was it where you were living</p> <p>20 in August of 2006 when you provided this</p> <p>21 to the EEOC?</p> <p>22 A Yes.</p> <p>23 MS. GOETCHEUS: I would like to</p> <p>24 mark for identification as Defendant's</p> <p>25 Exhibit QQ an e-mail from Michelle</p>



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1 PHILBERT GORRICK  
 2 Bryant (ph) to Yvette Vargas (ph) "re  
 3 Philbert Gorrick," Bates stamped  
 4 D2343, dated October 26, 2006.  
 5 [The document was hereby marked  
 6 as Defendant's Exhibit QQ for  
 7 identification, as of this date.]  
 8 Q Do you recall having the  
 9 conversation with Ms. Bryant that she  
 10 writes about in this e-mail?  
 11 A Yes.  
 12 Q And at least by this date you  
 13 were aware that a reclassification exam  
 14 had been set for you by October 26, 2006?  
 15 A Yes.  
 16 Q Did you maintain Post Office box  
 17 160026 in Brooklyn, New York, zip code  
 18 11216, in August through December of 2006?  
 19 A Yes.  
 20 Q When did you first obtain this  
 21 Post Office box?  
 22 A Shortly after the fiasco with  
 23 the union and getting my letters to me  
 24 with the dismissal stuff, I thought it  
 25 best to get help in getting the mailbox.

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1 PHILBERT GORRICK  
 2 So I got the mailbox and so they would  
 3 send me letters not only at the union, but  
 4 to this box.  
 5 Q And you maintained it  
 6 continuously from the time you obtained it  
 7 through at least the end of December 2006?  
 8 A Today. To today, yes.  
 9 Q Until present?  
 10 A Yes.  
 11 MS. GOETCHEUS: I would like to  
 12 mark for identification as Defendant's  
 13 Exhibit RR a letter addressed to you  
 14 from Steven E. Perez dated November 1,  
 15 2006, Bates stamped D295.  
 16 [The document was hereby marked  
 17 as Defendant's Exhibit RR for  
 18 identification, as of this date.]  
 19 Q Did you receive this letter  
 20 (handing)?  
 21 A (Perusing.) Yes, I did.  
 22 Q Did you appear for that  
 23 examination in or about November -- that  
 24 reclassification examination in or about  
 25 November or December of 2006?

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1 PHILBERT GORRICK  
 2 A November 15th, yes, I was there.  
 3 Q It was held on November 15,  
 4 2006?  
 5 A Yes.  
 6 Q It had not been rescheduled?  
 7 A No.  
 8 Q To your recollection, it was  
 9 held on November 15th?  
 10 A Yes, yes.  
 11 Q What was the outcome of that  
 12 reclassification examination?  
 13 A They give me a set of forms to  
 14 fill out, I then asked -- and the  
 15 personnel department asked me to sign a  
 16 consent giving the Transit Authority  
 17 permission to reclassify me.  
 18 Q I'm asking you about the medical  
 19 exam in November of 2006. Were you found  
 20 eligible for reclassification during that  
 21 medical exam?  
 22 A Nothing different than what I  
 23 did from the years before. Nothing to do  
 24 with reclassification. I just went there  
 25 to do a medical examination.

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1 PHILBERT GORRICK  
 2 Reclassification is different.  
 3 MS. GOETCHEUS: I would like to  
 4 mark for identification as Defendant's  
 5 Exhibit SS an RW/Reclassification  
 6 Title Transfer form dated December 8,  
 7 2006, Bates stamped 1154, and a letter  
 8 addressed to Mr. Gorrick from Steven  
 9 E. Perez dated January 16, 2007, Bates  
 10 stamped 1155 through 56.  
 11 [The documents were hereby  
 12 marked as Defendant's Exhibit SS for  
 13 identification, as of this date.]  
 14 Q Do you recognize these documents  
 15 (handing)?  
 16 A (Perusing.) Yes.  
 17 Q What do you recognize them to  
 18 be?  
 19 A A letter asking me to accept a  
 20 reclassification to public property  
 21 protection agent.  
 22 Q And the first page is the  
 23 medical department's having found you  
 24 medically qualified for the title of  
 25 Transit property protection agent and for

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<p style="text-align: right;">198</p> <p>1 PHILBERT GORRICK</p> <p>2 station agent; is that correct? The one</p> <p>3 numbered D1154?</p> <p>4 A I see numbers in the form, yes.</p> <p>5 "May be considered for" -- yes.</p> <p>6 Q And the limitations found by the</p> <p>7 medical department are "Areas requiring</p> <p>8 safety shoes, work on track, roadbed, any</p> <p>9 New York City Transit vehicle"; is that</p> <p>10 correct?</p> <p>11 A That is correct.</p> <p>12 Q Did there come a time when you</p> <p>13 were processed for appointment to Transit</p> <p>14 property protection agent?</p> <p>15 A I don't understand the question.</p> <p>16 MS. GOETCHEUS: I would like to</p> <p>17 mark for identification as Defendant's</p> <p>18 Exhibit TT documents produced by</p> <p>19 plaintiff in discovery, Bates stamped</p> <p>20 P507 through 510, consisting of a job</p> <p>21 description for the title of Transit</p> <p>22 property protection agent and a</p> <p>23 partially completed form titled "New</p> <p>24 York City Department of Citywide</p> <p>25 Administrative Services, Division of</p>	<p style="text-align: right;">200</p> <p>1 PHILBERT GORRICK</p> <p>2 it was supposed to be somewhere -- I was</p> <p>3 on Livingston.</p> <p>4 Q 180 Livingston?</p> <p>5 A At the MAC -- yeah, 180</p> <p>6 Livingston.</p> <p>7 Q And so these forms were given to</p> <p>8 you there; is that correct?</p> <p>9 A Yes.</p> <p>10 Q And what happened then?</p> <p>11 A I took the forms, read them,</p> <p>12 didn't quite understand what they were. I</p> <p>13 told them that I will have to take these</p> <p>14 forms and get advisement on them.</p> <p>15 Q And what happened then?</p> <p>16 A I told them that I'm prepared to</p> <p>17 take the job providing I don't have to</p> <p>18 sign a consent that I have to transfer</p> <p>19 title, I don't want to consent to that,</p> <p>20 they can change my title, they can do that</p> <p>21 at any time.</p> <p>22 Q During the period from your</p> <p>23 suspension in October 2000 to the present,</p> <p>24 have you been covered by a health benefit</p> <p>25 plan at any time?</p>
<p style="text-align: right;">199</p> <p>1 PHILBERT GORRICK</p> <p>2 Citywide Personnel Services, Request</p> <p>3 for Transfer, Redeployment and/or</p> <p>4 Change of Title.</p> <p>5 [The documents were hereby</p> <p>6 marked as Defendant's Exhibit TT for</p> <p>7 identification, as of this date.]</p> <p>8 Q Do you recognize these documents</p> <p>9 (handing)?</p> <p>10 A (Perusing.) Yes.</p> <p>11 Q How did you come to have these</p> <p>12 documents?</p> <p>13 A I was asked to report by Mr. --</p> <p>14 the previous gentleman, Perez, to report</p> <p>15 to the Department of Personnel for</p> <p>16 reclassification paperwork processing, and</p> <p>17 I agreed and went ahead to do that, and</p> <p>18 I'm getting they're asking me to give</p> <p>19 permission to change my title.</p> <p>20 Q Who completed the handwritten</p> <p>21 portion of the form on P509?</p> <p>22 A Not me.</p> <p>23 Q Were you at One Center Street or</p> <p>24 were you at Transit personnel offices?</p> <p>25 A I don't know, it's so long, but</p>	<p style="text-align: right;">201</p> <p>1 PHILBERT GORRICK</p> <p>2 A Out of my own pocket, no, I</p> <p>3 don't recall any long-term benefit plans.</p> <p>4 Q Were you covered under a plan</p> <p>5 during the period October 2000 to the</p> <p>6 present?</p> <p>7 A No, I'm not aware of it. No</p> <p>8 communication, no correspondence, nothing</p> <p>9 to the effect, so I'm not aware of any</p> <p>10 coverage.</p> <p>11 Q Was your wife employed from any</p> <p>12 time from the period September 2000 to the</p> <p>13 present?</p> <p>14 A I don't know, my wife and I</p> <p>15 separated. We're living separate lives.</p> <p>16 Q In October of 2000, were you</p> <p>17 separated from your wife?</p> <p>18 A In October of 2000?</p> <p>19 Q Yes.</p> <p>20 A No.</p> <p>21 Q Was your wife employed in</p> <p>22 October of 2000?</p> <p>23 A I think she were. I don't know,</p> <p>24 I'm not quite -- I think she's</p> <p>25 under-employed, not quite employed.</p>

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204

1 PHILBERT GORRICK

2 Q Was your wife employed by the  
3 New York City Police Department in October  
4 of 2000?

5 A I don't know, I can't remember.

6 MS. GOETCHEUS: I would like to  
7 mark for identification a document  
8 titled "Pre-employment Application  
9 Background Verification Questionnaire  
10 for New York City Transit" completed  
11 by Mignon Gorrick as Exhibit UU.

12 [The document was hereby marked  
13 as Defendant's Exhibit UU for  
14 identification, as of this date.]

15 Q Turning to the second yellow tab  
16 that I put in there, does this refresh  
17 your recollection that your wife -- is  
18 Mignon Gorrick your wife?

19 A Yes.

20 Q And is 166-40 49th Avenue,  
21 apartment 4E, Jamaica, New York your  
22 former marital apartment?

23 A Yes.

24 Q Turning to the page I have  
25 tabbed, does this refresh your

1 PHILBERT GORRICK

2 benefit plan?

3 A No, I'm not aware of.

4 Q Were you aware that your wife  
5 accepted employment as a bus operator for  
6 New York City Transit in July 2003?

7 A First time, no.

8 MS. GOETCHEUS: Let's take a  
9 short break.

10 [A short recess was taken from  
11 3:57 p.m. to 4:06 p.m.]

12 MS. GOETCHEUS: Okay, I think I  
13 am through, but holding the deposition  
14 open because of the counterclaim,  
15 which is in a pending status.

16 MR. LICHTEN: All right.

17 [TIME NOTED: 4:07 P.M.]

18  
19 PHILBERT GORRICK

20 Subscribed and sworn to

21 Before me this \_\_\_\_\_

22 Day of \_\_\_\_\_,

23 2007.

24 Notary Public

203

205

1 PHILBERT GORRICK

2 recollection that your wife was employed  
3 by the New York City Police Department  
4 from November 1, 1999?

5 A I don't know. I don't know.

6 Q I don't think you're on the  
7 right page. If you would turn to the page  
8 that has the yellow tab on it --

9 A Yes.

10 Q -- it says "City of New York  
11 Update Personnel Document."

12 A Maybe, I'm not quite sure. This  
13 is my wife information; not mine. I don't  
14 know what she does.

15 Q Were you covered under your  
16 wife's health benefits at any time?

17 A I'm not aware of it, no.

18 Q Were you covered under COBRA  
19 from Transit at any time?

20 A What period?

21 Q From October 2000 to the  
22 present.

23 A I don't know, Transit Authority  
24 never communicated that to me.

25 Q From COBRA, under your wife's

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<p style="text-align: right;">206</p> <p>1 2 EXHIBITS 3 DEFENDANT'S DESCRIPTION PAGE 4 L Memo from Peter Ingoglia to Superintendent Rodney dated 3/8/00, Bates P310 79 5 6 M Disciplinary Action Notification dated 3/21/00, Bates D639 80 7 8 N Stipulation and Agreement dated 5/25/00, Bates P322 80 9 10 O Memo dated 10/26/00 from Vincent Valenti to John Campbell, Bates P406 82 11 12 P Memo dated 10/9/00 from Richard Gayle to John Campbell, Bates P409 85 13 14 Q Memo dated 10/27/00 from J. Lee to John Campbell, Bates P404-P405 88 15 16 R Disciplinary Action Notification dated 10/26/00, Bates D1356 91 17 18 S Letter from Mr. Lichten to Magistrate Judge Peck dated 10/26/07 93 19 20 T 13-pg fax from John Luard 113 21 22 U Affidavit sworn to on 10/24/06 126 23 V Payroll check stub information form dated 12/10/06, Bates P511 128 24 W 2006 income tax return 130 25</p>	<p style="text-align: right;">208</p> <p>1 2 EXHIBITS 3 DEFENDANT'S DESCRIPTION PAGE 4 II Arbitration decision dated 9/28/03, Bates 2964-72 176 5 6 II Arbitration decision dated 7/19/06, Bates D2190-2201 180 7 8 KK Transit form G46 dated 8/15/06, Bates D298 184 9 10 LL Restricted Work Assessment dated 8/15/06, Bates D302; and attached letter dated 8/15/06, Bates D308 185 11 12 MM Transit form G46 dated 8/16/06, Bates 294 187 13 14 NN Memo from Steven Perez to GS Santaripa dated 8/16/06, Bates 1279 187 15 16 OO Letter from Dr. Svahn to Dr. Ganser dated 9/5/06, Bates P388-389 189 17 18 PP Memo from Steven Perez to GS Santaripa dated 9/19/06, Bates D1276 192 19 20 QQ E-mail from Michelle Bryant to Yvette Vargas dated 10/26/06, Bates D2343 194 21 22 RR Letter from Steven Perez to Philbert Gorrick dated 11/1/06, Bates D295 195 23 24 SS Reclassification Title Transfer form dated 12/8/06, Bates 1154; and letter from Steven Perez to Philbert Gorrick dated 1/16/07, Bates 1155-56 197 25</p>
<p style="text-align: right;">207</p> <p>1 2 EXHIBITS 3 DEFENDANT'S DESCRIPTION PAGE 4 X DMV records of vehicle ownership 1998-present 145 5 6 Y Opinion and Award dated 4/3/02, Bates D408-417 152 7 8 Z Bates P332-54 155 9 10 AA G46 and Restricted Work Assessment dated 8/9/06, Bates D1314-15 155 11 12 BB Memo from Gus Rivera to Patrick McGreal dated 1/22/03, Bates P467-503 155 13 14 CC Memo from Gus Rivera to Patrick McGreal dated 1/22/03, Bates D1323-1352 155 15 16 DD Letter from Dr. Svahn to Gus Rivera dated 5/22/02, Bates P378-79 160 17 18 EE Letter from Donovan Smith to Gus Rivera dated 7/2/02, Bates P417 161 19 20 FF Letter from Dr. Svahn to Ken Paige dated 6/16/04, Bates D2359 167 21 22 GG Letter from Dr. Svahn to Dr. Alexander, dated 11/4/02, Bates 369; and letter from D. Smith to Gus Rivera, dated 12/9/02, Bates 371 170 23 24 HH Step Two Abandonment Hearing dated 5/9/03, Bates P462-65 175 25</p>	<p style="text-align: right;">209</p> <p>1 2 EXHIBITS 3 DEFENDANT'S DESCRIPTION PAGE 4 TT Request for Transfer, Redeployment and/or Change of Title, Bates P507-510 199 5 6 7 UU Pre-employment Application Background Verification Questionnaire for NYC Transit completed by Mignon Gorrick 202 8 9 10 Ms. Goetheus from NYCTA has retained all exhibits. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1  
2  
3 CERTIFICATION  
4

5 I, TRACY VASTA, a Notary Public for  
6 and within the State of New York, do  
7 hereby certify:

8 That the witness whose testimony as  
9 herein set forth, was duly sworn by me;  
10 and that the within transcript is a true  
11 record of the testimony given by said  
12 witness.

13 I further certify that I am not  
14 related to any of the parties to this  
15 action by blood or marriage, and that I am  
16 in no way interested in the outcome of  
17 this matter.

18 IN WITNESS WHEREOF, I have hereunto  
19 set my hand this 16th day of December,  
20 2007.  
21

22 \_\_\_\_\_  
23 TRACY VASTA  
24  
25

\* \* \*

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1  
2 ERRATA SHEET  
3 VERITEXT/NEW YORK REPORTING, LLC

4 CASE NAME: GORRICK v NYCTA  
5 DATE OF DEPOSITION: DECEMBER 13, 2007  
6 WITNESS' NAME: PHILBERT GORRICK

7 PAGE/LINE(S)	8 CHANGE	9 REASON
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PHILBERT GORRICK

21 SUBSCRIBED AND SWORN TO  
22 BEFORE ME THIS \_\_\_\_\_ DAY  
23 OF \_\_\_\_\_, 2007.

24 NOTARY PUBLIC  
25 MY COMMISSION EXPIRES \_\_\_\_\_

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VERITEXT/NEW YORK REPORTING COMPANY

212-267-6868

516-608-2400

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T. 013

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Payer's name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2002</b> Form 1099-MISC	Miscellaneous Income
1221 BEDFORD FAMILY SERVICES, INC BROOKLYN NY 11216 (718) 398-3499 STAY DANIELS		2 Royalties \$	3 Other income \$	
PAYER'S Federal identification number 11-3012742	RECIPIENT'S identification number 072-76-8370	4 Fishing boat proceeds \$	4 Federal income tax withheld \$	Copy B For Recipient  This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPORARY TECHNOLOGY</b>		5 Nonemployee compensation \$ 104907.00	6 Med & health care payments \$	
Street address (including apartment number) 166-40 89TH AVENUE		7 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	8 Substitute payments in lieu of dividends or interest \$	
City JAMAICA	State ZIP code NY 11432	9 Excess golden parachute payments \$	10 Crop insurance proceeds \$	
Account number (optional)		11	12	
15		13	14 Gross proceeds paid to an attorney \$	
		16 State tax withheld \$	17 State/Payer's state no. \$	
		18 State income \$		

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(Keep for your records.)

Department of the Treasury — Internal Revenue Service

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PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2002</b> Form 1099-MISC	Miscellaneous Income
1221 BEDFORD FAMILY SERVICES, INC BROOKLYN NY 11216		2 Royalties \$	3 Other income \$	
PAYER'S Federal identification number 11-3012742	RECIPIENT'S identification number 072-76-8370	4 Fishing boat proceeds \$	4 Federal income tax withheld \$	Copy C For Payer  For Privacy Act and Paperwork Reduction Act Notice, see the 2002 General Instructions for Forms 1099, 1098, 5498, and W-2G.
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPORARY TECHNOLOGY</b>		5 Nonemployee compensation \$ 104907.00	6 Med & health care payments \$	
Street address (including apartment number) 166-40 89TH AVENUE		7 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	8 Substitute payments in lieu of dividends or interest \$	
City JAMAICA	State ZIP code NY 11432	9 Excess golden parachute payments \$	10 Crop insurance proceeds \$	
Account number (optional)		11	12	
15		13	14 Gross proceeds paid to an attorney \$	
		16 State tax withheld \$	17 State/Payer's state no. \$	
		18 State income \$		

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PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2002</b> Form 1099-MISC	Miscellaneous Income
1221 BEDFORD FAMILY SERVICES, INC BROOKLYN NY 11216		2 Royalties \$	3 Other income \$	
PAYER'S Federal identification number 11-3012742	RECIPIENT'S identification number 072-76-8370	4 Fishing boat proceeds \$	4 Federal income tax withheld \$	Copy 1 For State Tax Department
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPORARY TECHNOLOGY</b>		5 Nonemployee compensation \$ 104907.00	6 Med & health care payments \$	
Street address (including apartment number) 166-40 89TH AVENUE		7 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	8 Substitute payments in lieu of dividends or interest \$	
City JAMAICA	State ZIP code NY 11432	9 Excess golden parachute payments \$	10 Crop insurance proceeds \$	
Account number (optional)		11	12	
15		13	14 Gross proceeds paid to an attorney \$	
		16 State tax withheld \$	17 State/Payer's state no. \$	
		18 State income \$		

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Department of the Treasury — Internal Revenue Service

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P. 012

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PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>  <b>1221 BEDFORD AVENUE</b> <b>BROOKLYN NY 11216</b> <b>(718) 398-3499 STAY DANIELS</b>		OMB No. 1545-0115 <b>2003</b> Form 1099-MISC		<b>Miscellaneous Income</b>
PAYER'S Federal Identification number <b>11-3012742</b>		RECIPIENT'S Identification number <b>072-76-8370</b>		
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPOPRARY TECHNOLOGY</b> Street address (including apartment number) <b>166-40 89TH STREET</b> City <b>JAMAICA</b> State <b>NY</b> ZIP code <b>11432</b> Account number (optional) <b>15</b>		1 Rents \$	4 Federal income tax withheld \$	<b>Copy B For Recipient</b>  This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
		2 Royalties \$	5 Med & health care payments \$	
		3 Other income \$	6 Substitute payments in lieu of dividends or interest \$	
		5 Fishing boat proceeds \$	10 Crop insurance proceeds \$	
		7 Nonemployee compensation \$ <b>131882.01</b>	12	
		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	14 Gross proceeds paid to an attorney \$	
		11	17 State/Payer's state no. \$	
		13 Excess golden parachute payments \$	18 State income \$	
		16 State tax withheld \$		
		17 State/Payer's state no. \$		

BAA Form 1099-MISC

(Keep for your records.)

Department of the Treasury — Internal Revenue Service

CUT HERE

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>  <b>1221 BEDFORD AVENUE</b> <b>BROOKLYN NY 11216</b>		OMB No. 1545-0115 <b>2003</b> Form 1099-MISC		<b>Miscellaneous Income</b>
PAYER'S Federal Identification number <b>11-3012742</b>		RECIPIENT'S Identification number <b>072-76-8370</b>		
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPOPRARY TECHNOLOGY</b> Street address (including apartment number) <b>166-40 89TH STREET</b> City <b>JAMAICA</b> State <b>NY</b> ZIP code <b>11432</b> Account number (optional) <b>15</b>		1 Rents \$	4 Federal income tax withheld \$	<b>Copy C For Payer</b>  For Privacy Act and Paperwork Reduction Act Notice, see the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G.
		2 Royalties \$	5 Med & health care payments \$	
		3 Other income \$	6 Substitute payments in lieu of dividends or interest \$	
		5 Fishing boat proceeds \$	10 Crop insurance proceeds \$	
		7 Nonemployee compensation \$ <b>131882.01</b>	12	
		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	14 Gross proceeds paid to an attorney \$	
		11	17 State/Payer's state no. \$	
		13 Excess golden parachute payments \$	18 State income \$	
		16 State tax withheld \$		
		17 State/Payer's state no. \$		

BAA Form 1099-MISC

Department of the Treasury — Internal Revenue Service

CUT HERE

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>  <b>1221 BEDFORD AVENUE</b> <b>BROOKLYN NY 11216</b>		OMB No. 1545-0115 <b>2003</b> Form 1099-MISC		<b>Miscellaneous Income</b>
PAYER'S Federal Identification number <b>11-3012742</b>		RECIPIENT'S Identification number <b>072-76-8370</b>		
RECIPIENT'S name <b>PHILBERT T. GORRICK</b> <b>CONTEMPOPRARY TECHNOLOGY</b> Street address (including apartment number) <b>166-40 89TH STREET</b> City <b>JAMAICA</b> State <b>NY</b> ZIP code <b>11432</b> Account number (optional) <b>15</b>		1 Rents \$	4 Federal income tax withheld \$	<b>Copy 1 For State Tax Department</b>  
		2 Royalties \$	5 Med & health care payments \$	
		3 Other income \$	6 Substitute payments in lieu of dividends or interest \$	
		5 Fishing boat proceeds \$	10 Crop insurance proceeds \$	
		7 Nonemployee compensation \$ <b>131882.01</b>	12	
		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	14 Gross proceeds paid to an attorney \$	
		11	17 State/Payer's state no. \$	
		13 Excess golden parachute payments \$	18 State income \$	
		16 State tax withheld \$		
		17 State/Payer's state no. \$		

BAA Form 1099-MISC

FDW40302 05/28/03

Department of the Treasury — Internal Revenue Service

DEC/05/2007/WED 05:19 AM

F. 011

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2004</b> Form 1099-MISC FDWA0302 10/22/04	<b>Miscellaneous Income</b>
1221 BEDFORD AVENUE BROOKLYN NY 11216 (718) 398-3499 STAY DANIELS		2 Royalties \$	3 Other income \$	
PAYER'S Federal Identification number 11-3012742	RECIPIENT'S Identification number 072-76-8370	4 Fishing boat proceeds \$	5 Federal income tax withheld \$	<b>Copy B For Recipient</b>
RECIPIENT'S name PHILBERT T. GORRICK CONTEMPORARY TECHNOLOGY		6 Med & health care payments \$	7 Nonemployee compensation \$ 111959.46	
Street address (including apartment number) 166-40 89TH STREET		8 Subsidize payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
City JAMAICA	State ZIP code NY 11432	10 Crop insurance proceeds \$	11 [REDACTED]	
Account number (optional)		12 [REDACTED]	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15		16 State tax withheld \$	17 State/Payer's state no. \$	18 State income \$

BAA Form 1099-MISC

(Keep for your records.)

Department of the Treasury -- Internal Revenue Service

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2004</b> Form 1099-MISC	<b>Miscellaneous Income</b>
1221 BEDFORD AVENUE BROOKLYN NY 11216		2 Royalties \$	3 Other income \$	
PAYER'S Federal Identification number 11-3012742	RECIPIENT'S Identification number 072-76-8370	4 Fishing boat proceeds \$	5 Federal income tax withheld \$	<b>Copy C For Payer</b>
RECIPIENT'S name PHILBERT T. GORRICK CONTEMPORARY TECHNOLOGY		6 Med & health care payments \$	7 Nonemployee compensation \$ 111959.46	
Street address (including apartment number) 166-40 89TH STREET		8 Subsidize payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	For Privacy Act and Paperwork Reduction Act Notice, see the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.
City JAMAICA	State ZIP code NY 11432	10 Crop insurance proceeds \$	11 [REDACTED]	
Account number (optional)		12 [REDACTED]	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15		16 State tax withheld \$	17 State/Payer's state no. \$	18 State income \$

BAA Form 1099-MISC

FDWA0302 10/22/04

Department of the Treasury -- Internal Revenue Service

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone number <b>CONCORD FAMILY SERVICES, INC</b>		1 Rents \$	OMB No. 1545-0115 <b>2004</b> Form 1099-MISC	<b>Miscellaneous Income</b>
1221 BEDFORD AVENUE BROOKLYN NY 11216		2 Royalties \$	3 Other income \$	
PAYER'S Federal Identification number 11-3012742	RECIPIENT'S Identification number 072-76-8370	4 Fishing boat proceeds \$	5 Federal income tax withheld \$	<b>Copy 1 For State Tax Department</b>
RECIPIENT'S name PHILBERT T. GORRICK CONTEMPORARY TECHNOLOGY		6 Med & health care payments \$	7 Nonemployee compensation \$ 111959.46	
Street address (including apartment number) 166-40 89TH STREET		8 Subsidize payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	
City JAMAICA	State ZIP code NY 11432	10 Crop insurance proceeds \$	11 [REDACTED]	
Account number (optional)		12 [REDACTED]	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15		16 State tax withheld \$	17 State/Payer's state no. \$	18 State income \$

BAA Form 1099-MISC

FDWA0302 10/22/04

Department of the Treasury -- Internal Revenue Service

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

NEW YORK CITY TRANSIT AUTHORITY,

Index No. 400672/08

Plaintiff,

NOTICE OF MOTION

- against -

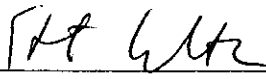
PHILBERT GORRICK,

Defendant.

-----X

**PLEASE TAKE NOTICE** that, upon the Complaint, the Affirmation of Stuart Lichten, the Declaration of Kenneth Page, and all prior proceedings had herein, defendant Philbert Gorrick will move this Court, at the Courthouse thereof located at 60 Centre Street, New York, New York, at the Motion Support Part, Room 130, on June 18, 2008 at 9:30 o'clock in the forenoon of that day, for an Order dismissing the Complaint, pursuant to CPLR § 3211(a)(1), (2), (5), and (7), upon the grounds that a defense is founded upon documentary evidence, the Court has not jurisdiction of the subject matter of the causes of action, the causes of action may not be maintained because of arbitration and award, and the pleading fails to state a cause of action, and granting such other and further relief as this Court deems just, proper, and equitable.

Dated: New York, New York  
May 8, 2008

  
\_\_\_\_\_  
Stuart Lichten  
SCHWARTZ, LICHTEN & BRIGHT, P.C.  
Attorneys for Defendant  
275 Seventh Avenue - 17th Floor  
New York, New York 10001  
(212) 228-6320



TO: Ann Burton Goetcheus, Esq.  
NEW YORK CITY TRANSIT AUTHORITY  
130 Livingston Street - Room 1233  
Brooklyn, New York 11201  
(718) 694-3889

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

NEW YORK CITY TRANSIT AUTHORITY,

Index No. 400672/08

Plaintiff,

- against -

AFFIRMATION

PHILBERT GORRICK,

Defendant.

-----X

STUART LICHTEN, an attorney duly admitted to practice law in the State of New York and the attorney of record for defendant, affirms to be true, under the penalties of perjury and pursuant to CPLR § 2106, the following:

1. I am a member of the law firm of Schwartz, Lichten & Bright, P.C., which represents defendant in this action. I submit this Affirmation in support of defendant's motion to dismiss the Complaint.
2. Attached as Exhibit A is the Complaint in this action.
3. Attached as Exhibit B is an Order of the United States District Court for the Southern District of New York in Gorrick v. New York City Transit Authority, 07 Civ. 2529 (GBD), dated February 25, 2008.
4. Attached as Exhibit C is a Disciplinary Action Notification issued by plaintiff New York City Transit Authority ("TA") to defendant Philbert Gorrick ("Gorrick"), dated February 5, 2003.

5. Attached as Exhibit D is a copy of a letter from the TA to Gorrick regarding reclassification examination, dated September 27, 2006.

6 Attached as Exhibit E is a copy of a letter from the TA to Gorrick regarding notice of termination, dated May 18, 2007.

Dated: New York, New York  
May 7, 2008

  
\_\_\_\_\_  
STUART LICHTEN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
GORRICK

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY

Defendant.  
-----x

GEORGE B. DANIELS, District Judge:

On March 27, 2007, Plaintiff filed a complaint alleging discrimination on the basis of disability. On December 12, 2007, Defendant filed a motion seeking leave to amend its answer and to add three counterclaims for fraudulent misrepresentation, fraudulent concealment, and unjust enrichment under New York common law. Defendant alleges that it received newly discovered information on December 4, 2007, which reveals that Plaintiff defrauded Defendant out of \$108,820.20 by misrepresenting and concealing his income from other employment in order to obtain an award of back pay. Plaintiff opposes the motion.

For this Court to exercise supplemental jurisdiction, “[t]he state and federal claims must derive from a common nucleus of operative fact.” United Mine Workers of America v. Gibbs, 383 U.S. 715, 725, 86 S.Ct. 1130, 1138 (1966). “In determining whether two disputes arise from a ‘common nucleus of operative fact,’ [the Second Circuit] ha[s] traditionally asked whether ‘the facts underlying the federal and state claims substantially overlapped . . . [or] the federal claim necessarily brought the facts underlying the state claim before the court.’” Achtman v. Kirby, McInerney & Squire, LLP, 464 F.3d 328, 335 (2d Cir. 2006) (quoting Lyndonville Sav. Bank & Trust Co. v. Lussier, 211 F.3d 697, 704 (2d Cir. 2000) (internal citations omitted)). “It has

ORDER

07 Civ. 02529 (GBD)

FEB 05 2008

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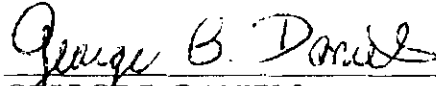
consistently been recognized that pendent jurisdiction is a doctrine of discretion, not of plaintiff's right." Gibbs, 388 U.S. at 726.

Defendant's proposed counterclaims allege fraud in a union grievance that was decided in plaintiff's favor via labor arbitration in June 2006, arising from plaintiff's suspension for disciplinary charges. The counterclaims arise from a separate and unrelated set of facts than plaintiff's claim of disability discrimination in the case before this Court. Thus, the separate claims do not arise out of a common nucleus of operative fact.

Defendant's motion to amend its answer and add counterclaims is denied.

Dated: New York, New York  
February 5, 2008

SO ORDERED:

  
\_\_\_\_\_  
GEORGE B. DANIELS  
United States District Judge

Department Electrical 03 2901 0002  
(D.A.R. #)  
NAME Philbert Gerrick PASS 330899 TITLE PCM  
LOCATION 100 Locust Avenue JOB NO. PL17701 HOURS 8a-4p RDOS Sun/Se  
REPORTED BY Gustave Rivera TITLE Director, Safety DATE 2/5/03  
Supervisor's Signature  
RULES VIOLATED 2b, 4a, 4b, 90, Bulletin 99-11, min 2 SR# 2.01.019 SUSPENDED 10 1 9 100  
Opinion and Award in DAN # 00-2901-0110  
STATEMENT OF FACTS

You have failed to comply with the Tripartite Arbitration Board's Opinion and Award in DAN # 00-2901-0110.

DECISION Dismissal  
C. Tillman II Tillman TITLE ASA DATE 2/5/03  
Supervisor's Signature

EMPLOYEE NOTIFIED \_\_\_\_\_ UNION NOTIFIED \_\_\_\_\_  
Signature Date Signature Date

**EMPLOYEE ACCEPTANCE**

I accept the above decision \_\_\_\_\_ Date \_\_\_\_\_  
Employee Signature  
Union Representative \_\_\_\_\_ Date \_\_\_\_\_

Received on 2/13/03 M. Ramer

**EMPLOYEE APPEAL**

APPEAL OF THIS NOTIFICATION MUST BE MADE WITHIN FIVE DAYS OF RECEIPT OF NOTIFICATION

I do not accept the above decision and request a meeting for Philbert Gerrick 2/13  
Employee Signature Date  
Union Representative Milton Ramer 2/13  
Date

Date Step I Meeting Scheduled \_\_\_\_\_  
Acknowledgment of

**STEP 1 MEETING HELD**

DECISION Charges and penalty sustained Date 10/10/03  
Responsibility Center Head/Designee C. Tillman Date 10/10/03  
APPEAL MUST BE MADE WITHIN FIVE DAYS OF RECEIPT OF STEP 1 DECISION

I accept this above Step I decision: \_\_\_\_\_  
Employee Signature Date  
Union Representative Date  
Appeal this Step I decision: 10/10/03  
Employee Signature Date  
Union Representative 10/10/03 Date

Date Step II Meeting Scheduled \_\_\_\_\_  
Acknowledgment of

EMPLOYEE MUST EITHER ACCEPT OR APPEAL THE ABOVE DECISIONS WITHIN THE TIME LIMITS SET.  
FAILURE TO DO SO WILL RESULT IN IMPLEMENTATION OF THE DECISION.

EMPLOYEE ACKNOWLEDGMENT OF

NOTIFICATION \_\_\_\_\_  
STEP 1 \_\_\_\_\_





## New York City Transit

September 27, 2006

Philbert Gorrick # 330899 (Electrical)  
Title: Power Cable Maintainer  
166-05 Highland Ave.  
Jamaica, N.Y. 11432

Re: Reclassification Examination  
Civil Service Law - Section 73

Certified Mail - Return Receipt Requested  
Certified Mail # 7002-2030-0001-0939-4057

Dear Mr. Gorrick:

New York City Transit's records indicate that you received a permanent restricted work status on September 19, 2006. As a result of this permanent condition you have been unable to perform the full duties of your position.

You are hereby notified, pursuant to NYCT *Restricted Work Policy* (P/I No. 420.2), that Transit has scheduled a "Reclassification" examination for you on October 13, 2006 @ 10:00 A.M. at MAC #1, 180 Livingston Street, Brooklyn, New York, 11201.

You are hereby ordered to report to Room 1264 at 370 Jay Street promptly at 9:00 A.M. on October 13, 2006, to receive a G-46 form. Your contact will be either Ms. Bryant or I. From Room 1264, you will need to report to MAC #1 by 10:00 A.M. Upon completion of your exam, you are hereby directed to report to Ms. Bryant or me in Room 1264 at 370 Jay Street.

Sincerely Yours,

Stephen E. Perez  
Manager, Office of Employee Support & Safety  
(718) 243-4145

Cc: J. Crisci  
M. Santarpia  
Union  
Employee's File

D 2464

MTA New York City Transit is an agency of the Metropolitan Transportation Authority, State of New York  
Peter S. Kalikow, Chairman

64-01-2617-301

P.02

Oct 23 2006 12:32

Fax: 7186941196



## New York City Transit

Philbert Gorrick # 330899  
P.O. Box 160026  
Brooklyn, N.Y. 11216

May 18, 2007

*Via Regular & Certified Mail*

Regular and Certified Mail – Return Receipt Requested  
Certified Mail #: 7006-3450-0000-2640-0087

Re: Notice of Termination – One Year Continuous Absence


Dear Mr. Gorrick:

On September 19, 2006 you received a permanent restricted work status. Subsequently a reclassification examination was held on November 15, 2006, you were found medically qualified to perform the duties of a Transit Property Protection Agent. You were notified that the next Transit Property Protection Agent class was scheduled for Monday, February 26, 2007. However, you did not complete and return the "education and experience" forms, and thus, you did not fulfill the New York City Department of Citywide Service's requirement for reclassification and therefore, prevented the Reclassification Process from proceeding. Since, as of this date, you have not fulfilled the requirements for reclassification, this letter is to notify you that, pursuant to §73 of the Civil Service Law and/or the collective bargaining agreement and Transit's Restricted Duty Policy/Instruction, your employment is being terminated, effective June 4, 2007.

Under the Civil Service Law, you may, within one year of the termination of your disability, to the extent you are able to perform the essential duties of your position with or without a reasonable accommodation, make application for a medical examination to seek restoration of employment. If certified to be physically and mentally fit to perform the essential duties of your former position, with or without a reasonable accommodation, you will be reinstated to your former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field in your former department or agency. If no appropriate vacancy exists to which such reinstatement may be made, or if the workload does not warrant the filling of such vacancy, your name will be placed on a preferred list for your former position in your former department or agency and you will be eligible for reinstatement for a period of up to four years. In the event that you are reinstated to a position in a grade lower than that of your former position, your name will be placed on the preferred eligible list for your former position or any similar position in your former department or agency.

Application for a medical examination must be made in writing, addressed to the Medical Director, MTA New York City Transit, 180 Livingston Plaza, Brooklyn, N.Y. 11201 indicating when your disability terminated, and stating that you are physically and mentally fit to perform the duties of your position.

Sincerely,

  
Stephen E. Perez, Manager  
Office of Employee Support & Safety, MOW

cc: J. Crisci  
M Santarpia  
Union  
Employee's File

MTA New York City Transit is an agency of the Metropolitan Transportation Authority, State of New York  
Peter S. Katzko, Chairman

(22)



718 694-3889

November 2, 2007

**BY OVERNIGHT DELIVERY**

The Honorable George B. Daniels  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 11007

Re: *Gorrick v. New York City Transit Authority, et al* 07 CV 2529 (GBD)

Dear Judge Daniels:

We represent the Defendant in the above-captioned suit. I write in response to Plaintiff's counsel's letter requesting an informal conference to resolve a discovery dispute concerning a subpoena that was served by Defendant upon a third party, Concord Family Services, that has employed (and may currently employ) Mr. Gorrick, apparently in the role of an information technology consultant. The information requested is relevant to determination of Plaintiff's standing as a person with a disability within the meaning of the ADA, to alleged damages and to issues with respect to Plaintiff's credibility.

The disputed subpoena is attached as Exh. A hereto. According to Mr. Gorrick's tax return for 2006, which also included information regarding his 2005 income as well, Concord Family Services was the sole source of his gross income, which exceeded \$100,000, in both 2005 and 2006, and provided this information to IRS on 1099 forms. This tax return is attached as Exhibit B, see fax p. 11. I attach Plaintiff's Complaint as Exh. C. Plaintiff, who was hired by NYC Transit in July 1991 as a Power Cable Maintainer Helper, was subsequently promoted to Power Cable Maintainer, and last worked for NYC Transit in October 2000 when he was suspended for his failure to obtain OSHA compliant safety footwear required for his performance of the essential functions of his job. The annual wage for his job in 2004 was approximately \$52,000.

In its Discovery Requests, attached as Exh. D, Interrogatory no. 15 and Document Request no. 9, Defendant requested information concerning "each and every job, full time or part time, including self-employment that [Plaintiff] held from the suspension of [his] employment by the New York City Transit Authority in October 2000 to the present," as well as requesting, as Document Request no. 11, copies of his tax returns from 1999 to the present. Plaintiff initially refused to provide any of this information or documents and, after some discussion between counsel about his tax records, agreed to provide, in addition to a copy of Plaintiff's 2006 tax return, a release for the records associated with

2007-9909  
#1020305-

MTA New York City Transit is an agency of the Metropolitan Transportation Authority, State of New York  
Peter S. Kalikow, Chairman

his 2005 financing of a 2006 BMW.<sup>1</sup> Plaintiff's discovery responses are attached as Exh. E, and the Goetcheus letters dated September 5, 2007 and August 30, 2007 to Stuart Lichten as Exh. F

Plaintiff's counsel's statement in his letter to this Court that "[a]s Plaintiff is only seeking backpay since 2006, the parties resolved [the] dispute [concerning his tax returns since 2000] by agreeing that plaintiff only would have to provide his 2006 tax return," is incorrect in two respects. First, in his Complaint, which has not been amended, Plaintiff alleges discrimination beginning in October 2000 and asserts a claim for damages relating to "all earnings he would have received but for defendant's discriminatory treatment, including but not limited to wages, bonuses, pensions, and other lost benefits," without limitation of time. Further, Plaintiff stated that he would provide his 2006 tax return as a response to the document request and Defendant agreed to resolve the dispute regarding the *remaining* tax returns without raising the discovery dispute to this Court if Plaintiff would provide a release for the records of his 2005 application for financing for his 2006 BMW. See Exh. F. Plaintiff did indeed provide that release along with the 2006 tax return and Defendant has obtained some records concerning that financing.<sup>2</sup>

The alleged "limitation" of the damages demanded played no role in Defendant's proposal to compromise on the tax returns. [It should be noted that Plaintiff's 2006 tax return is dated September 10, 2007 – four days prior to its being faxed to Defendant by his counsel.] We have received no proof of this return having been filed with IRS, and no copy of the 1099's from Concord Family Services were provided.

Plaintiff's 2006 tax return declared income for 2005 and 2006 from a single source, Concord Family Services. Although Plaintiff's counsel now describes him as having "since 1996 . . . operated, on his own time, a sole proprietorship providing information technology consulting services to various clients, including Concord Family Service, Inc.," Plaintiff, who has not worked for Defendant since October 2000, described himself as homeless in 2003 in an arbitration (see Exh. H, page 2), and, in October 2006, provided Defendant an affidavit that stated that, from 2000 to 2004, "I was not employed elsewhere in any capacity and did not derive any earnings from any other employment, by self or otherwise, nor did I perform any work or services for which I was entitled to be paid now or at any future date, nor did I receive any unemployment insurance benefits, or public assistance. I make this affidavit in connection with the Award dated July 19, 2006, which directed that I be reimbursed for the period of my suspension from May 22, 2002 to June 9, 2004 in order to induce the Transit Authority to make such payment, knowing that the Authority will rely thereon." This affidavit is attached as Exh. I.<sup>3</sup>

<sup>1</sup> Mr. Gorrick's DMV records, attached as Exh. G, show that he has owned a series of late model luxury cars, including a 2000 Cadillac, a 2002 BMW and a 2006 BMW that was purchased in July 2005.

<sup>2</sup> The "employer" listed on the record is a non-existent corporation called "Philbert Corp." with a phone number that reverse listings state belongs to a Joseph Wilson at the same address as Plaintiff's apparent current residence, 166-05 Highland Avenue, Jamaica, NY. Curiously, Plaintiff took leave for death of a family member named Joseph Wilson in 1995. D1964-65. It is also the number Plaintiff listed as his emergency contact number in 1998. D2762.

<sup>3</sup> Mr. Lichten not only notarized Plaintiff's signature on this affidavit, he forwarded it to New York City Transit on Plaintiff's behalf, knowing that Defendant would rely on the representations in the affidavit in making payment of the approximately two years of backpay ordered by the Arbitrator. Income earned by Plaintiff during the period in question would have been a set-off against the amount of backpay owed to the Plaintiff. Plaintiff received \$108,820.20 gross, \$80,963.30 net, in payment of the 2006 award of two years back pay following his submission of this affidavit.



Further, Defendant made no agreement with Plaintiff concerning its discovery demands regarding his employment nor with regard to seeking information from third parties. Whether or not Plaintiff *claims* damages from October 2000 to August 2006 or not, his actions to mitigate damages in that period, during which he was not working for Defendant, through employment for others or self-employment, are directly relevant to any calculation of damages against Defendant, as well as determination of liability. Whether Plaintiff is disabled within the meaning of the ADA is a serious question as his inability to wear OSHA compliant safety shoes is scarcely a "substantial limitation of a major life activity," and does not limit him from a broad range of jobs, but only those jobs that require wearing such footwear. In fact, Defendant offered, and Plaintiff refused, another position at the same hourly wage. See *Burton v. Metropolitan Transportation Authority*, 244 F. Supp. 2d 252; 2003 U.S. Dist. LEXIS 2314; (S.D.N.Y. 2003), (Chin, J.) (evidence of employment in other jobs directly relevant to determination of whether Plaintiff was disabled within the meaning of the ADA.)


Further, there are issues regarding Plaintiff's credibility in view of his affidavit of no income in the period from October 2000 through 2004, his 2003 claim of homelessness at arbitration, and his purchase and ownership of late model luxury automobiles in the period from 2000-2006.

The subpoena served on Concord Family Services requested information "concerning Philbert Gorrick including but not limited to resumes, payments, vouchers, employment applications or proposals, 1099's and/or W-2's for the period from 1998 to the present." The 1998 date was based on Plaintiff having registered a New York Fictitious Business Name for a firm called "Contemporary Technologies Company" in 1999. Defendant conjectured that this DBA filing indicated that Plaintiff might have already had a going concern in 1998 – while in fact, per Mr. Lichten, his outside employment actually began earlier, in 1996. It is worth noting, that, although repeatedly notified of the NYCTA requirement that employees must file and obtain permission for dual employment, Mr. Gorrick never did so.

Defendant primarily seeks records from Concord Family Services, but, having been informed in a telephone conversation with a Concord staff member that financial records had been destroyed during a water leak, it does not wish to foreclose the possibility of deposing a representative of the agency with knowledge. Defendant has no desire to impair Plaintiff's conduct of his business – his success negates findings of damages against Defendant even if, as it certainly disputes, it were liable for discrimination. However, in order to mount an effective defense to the claims brought by Plaintiff, Defendant is entitled to obtain reliable, relevant information concerning his employment, by self-employment or otherwise, and the income he has received from it.

Defendant respectfully requests the Court to deny Plaintiff's request to quash the subpoena on Concord Family Services for his records and, indeed, to "so order" the subpoena and order Plaintiff to provide a release for his IRS records.

Sincerely yours,

  
Ann Burton Goetcheus  
Executive Agency Counsel

**BY OVERNIGHT MAIL**

cc: Stuart Lichten  
Schwartz, Lichten & Bright PC  
Attorney for Plaintiff  
275 Seventh Avenue - Suite 1700  
New York, N.Y. 10001

Joffrey H. Hill, Esq.  
Attorney for Concord Family Services  
Hill & Sias-Hill  
1185 Morris Avenue Suite 301  
Union, NJ 07083



AO 88 (Rev. 1/94) Subpoena in a Civil Case

**Issued by the  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**PHILBERT GORRICK,****Plaintiff,****SUBPOENA IN A CIVIL CASE****v.****CASE NUMBER: <sup>1</sup> 2007-1051****NEW YORK CITY TRANSIT AUTHORITY,****Defendant.**

**TO:** Custodian of Records, Concord Family Services, Inc., 1221 Bedford Avenue, Brooklyn, NY 11216  
(718) 398-3499

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201

DATE AND TIME

November 21, 2007 10:00 am

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

All notes, records and correspondence concerning Philbert Gorrick including but not limited to resumes, payments, vouchers, employment applications or proposals, 1099's and/or W-2's for the period from 1998 to the present.

PLACE

130 Livingston Street - 12<sup>th</sup> Floor  
Brooklyn, New York 11201

DATE AND TIME

October 22, 2007  
10:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

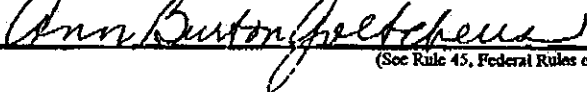
ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

Ann Burton Goetchus, Esq., Atty. for Defendants, 130 Livingston Street, 1233-p,  
Brooklyn, New York 11201 718-694-3889

DATE

September 25, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER



(See Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D on Reverse)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**SCHWARTZ, LICHTEN & BRIGHT, PC**  
**Attorneys at Law**

275 Seventh Avenue, 17th Floor  
New York, New York 10001  
tel: 212 228 6320  
fax: 212 358 1353

Arthur Z. Schwartz  
Stuart Lichten  
Daniel R. Bright  
\*Also admitted in Pennsylvania

**Facsimile transmission**

DATE: 9/14/07  
TO: Artur Berni Gutchins, Esq.  
FAX No: (718) 694-4020  
FROM: ☐ Arthur Z. Schwartz, Esq.  
☒ Stuart Lichten, Esq.  
☐ Daniel R. Bright, Esq.

Number of pages (including cover): \_\_\_\_\_

Hard copy ☒ will ☐ will not follow.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The information contained in this fax message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.



SCHWARTZ, LICHTEN & BRIGHT PC  
Attorneys at Law

275 Seventh Avenue Suite 1700  
New York, New York 10001  
Phone 212 228 6320 Facsimile 212 358 1353

Arthur Z Schwartz\*  
Stuart Lichten  
Daniel R Bright  
\*Also admitted in Pennsylvania

September 14, 2007

BY FAX AND U.S. MAIL

Ann Burton Goetcheus, Esq.  
Executive Agency Counsel  
N.Y.C. Transit Authority  
130 Livingston Street - Room 1233  
New York, New York 11201

Re: Gorrick v. New York City Transit Auth.  
07 Civ. 2529 (GBD)

Dear Ms. Goetcheus:

Enclosed is a copy of plaintiff's 2006 tax returns.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S/L Lichten'.

Stuart Lichten

Enclosures

**1040****U.S. Individual Income Tax Return****2006**

IRS Use Only - Do not write or staple in this space.

OMB No. 1545-0074

Label  
(See  
instructions  
on page 16.)Use the IRS  
label.  
Otherwise,  
please print  
or type.Presidential  
Election CampaignLABEL  
HERE

For the year Jan. 1-Dec. 31, 2006, or other tax year beginning

2006, ending

20

Your first name and initial

Last name

Your social security number

PHILBERT

GORICK

072 76 8370

If a joint return, spouse's first name and initial

Last name

Spouse's social security number

Home address (number and street). If you have a P.O. box, see page 16.

Apt. no.

You must enter

166-05 HIGHLAND AVE

6M

▲ your SSN(s) above ▲

City, town, or post office, state, and ZIP code. If you have a foreign address, see page 10.

Checking a box below will not  
change your tax or refund.

JAMAICA, NY 11432

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 16)

You ☐ Spouse ☐**Filing Status**1 ☒ Single4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here.2 ☐ Married filing jointly (even if only one had income)3 ☐ Married filing separately. Enter spouse's SSN above and full name here.5 ☐ Qualifying widow(er) with dependent child (see page 17)Check only  
one box.**Exemptions**6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6ab ☐ Spouse

c Dependents:

(1) First name

Last name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☐ Qualifying child for child tax credit (see page 18)

Boxes checked on 6a and 6b

No. of children on 6c who:

• lived with you  
• did not live with you due to divorce or separation (see page 20)

Dependents on 6c not entered above

Add numbers on lines above

If more than four dependents, see page 19.

d Total number of exemptions claimed

RECEIVED  
14211**Income**

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends (see page 23)

10 Taxable refunds, credits, or offsets of state and local income taxes

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

15a

b Taxable amount

16a Pensions and annuities

16a

b Taxable amount

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

20a

b Taxable amount (see page 27)

21 Other income. List type and amount (see page 29)

22 Add the amounts in the far right column for lines 7 through 21. This is your total income

30791.

**Adjusted  
Gross  
Income**

23 Archer MSA deduction. Attach Form 8853

24 Certain business expenses of reservists, performing artists, and fee-based government officials. Attach Form 2106 or 2106-EZ

25 Health savings account deduction. Attach Form 8889

26 Moving expenses. Attach Form 3903

27 One-half of self-employment tax. Attach Schedule SE

28 Self-employed SEP, SIMPLE, and qualified plans

29 Self-employed health insurance deduction (see page 29)

30 Penalty on early withdrawal of savings

31a Alimony paid b Recipient's SSN

32 IRA deduction (see page 31)

33 Student loan interest deduction (see page 33)

34 Jury duty pay you gave to your employer

35 Domestic production activities deduction. Attach Form 8903

36 Add lines 23 through 31a and 32 through 35

37 Subtract line 36 from line 22. This is your adjusted gross income

9887.

2091.

810C-11  
03-11-07

LHA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 60.

Form 1040 (2-06)

Form 1040 (2006)

PHILBERT GORICK

072-76-8370

Page 2

## Tax and Credits

Standard deduction for:

- People who checked any box on line 38a:
- 38b 07 who can be claimed as a dependent.

All others:

- Single or married filing separately.
- \$1,150

Married filing jointly or qualifying widow(er).

Head of household.

38	Amount from line 37 (adjusted gross income)	38	20912.
39a	Check if: <input type="checkbox"/> You were born before January 2, 1942, <input type="checkbox"/> Spouse was born before January 2, 1942, <input type="checkbox"/> Blind. <input type="checkbox"/> Blind. Total boxes checked ... 39a b If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here ... 39b		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	7143.
41	Subtract line 40 from line 38	41	13769.
42	If line 38 is over \$112,875, or you provided housing to a person displaced by Hurricane Katrina, see page 36. Otherwise, multiply \$3,300 by the total number of exemptions claimed on line 6d	42	3300.
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	10469.
44	Tax. Check if any tax is from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	44	1194.
45	Alternative minimum tax. Attach Form 6251	45	
46	Add lines 44 and 45	46	1194.
47	Foreign tax credit. Attach Form 1118 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Credit for the elderly or the disabled. Attach Schedule R	49	
50	Education credits. Attach Form 8863	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Residential energy credits. Attach Form 5695	52	
53	Child tax credit (see page 42). Attach Form 8901 if required	53	
54	Credits from: a <input type="checkbox"/> Form 8396 b <input type="checkbox"/> Form 8839 c <input type="checkbox"/> Form 8859	54	
55	Other credits: a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8801 c <input type="checkbox"/> Form	55	
56	Add lines 47 through 55. These are your total credits	56	
57	Subtract line 56 from line 46. If line 56 is more than line 46, enter -0-	57	1194.
58	Self-employment tax. Attach Schedule SE	58	4676.
59	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59	
60	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60	
61	Advance earned income credit payments from Form(s) W-2, box 9	61	
62	Household employment taxes. Attach Schedule H	62	
63	Add lines 57 through 62. This is your total tax	63	5870.

## Other Taxes

## Payments

If you have a qualifying child, attach Schedule EIC.

64	Federal income tax withheld from Forms W-2 and 1099	64	
65	2006 estimated tax payments and amount applied from 2005 return	65	
66a	Earned income credit (EIC)	66a	
66b	Nontaxable combat pay election	66b	
67	Excess social security and tier 1 RRTA tax withheld (see page 60)	67	
68	Additional child tax credit. Attach Form 8812	68	
69	Amount paid with request for extension to file (see page 60)	69	
70	Payments from: a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136 c <input type="checkbox"/> Form 8885	70	
71	Credit for federal telephone excise tax paid. Attach Form 8913 if required	71	30.
72	Add lines 64, 65, 66a, and 67 through 71. These are your total payments	72	30.

## Refund

Direct deposit? See page 61 and fill in 74b, 74c, and 74d, or Form 8888.

73	If line 72 is more than line 63, subtract line 63 from line 72. This is the amount you overpaid	73	
74a	Amount of line 73 you want refunded to you. If Form 8888 is attached, check here	74a	
74b	Routing number	74b	
74c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	74c	
74d	Account number	74d	
75	Amount of line 73 you want applied to your 2007 estimated tax	75	

## Amount

## You Owe

76	Amount you owe. Subtract line 72 from line 63. For details on how to pay, see page 62	76	6118.
77	Estimated tax penalty (see page 62)	77	278.

## Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 63)? ☐ Yes. Complete the following. ☐ No

Designee's name	Phone no.	Personal identification number (PIN)
-----------------	-----------	--------------------------------------

## Sign

## Here

Join return? See page 17. Keep a copy for our records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	

## Preparer's

## Use Only

Preparer's signature	Date	Check if self-employed	Preparer's SSN or PTIN
	09/10/07	<input type="checkbox"/>	P00645698

Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no.
JOHN TURIS ENTERPRISES INC 4713-15 AVENUE N BROOKLYN NY 11234	112973690	(718) 692-2010

Form **2210**Department of the Treasury  
Internal Revenue Service**Underpayment of  
Estimated Tax by Individuals, Estates, and Trusts**

▶ See separate instructions.

▶ Attach to Form 1040, 1040A, 1040NR, 1040NR-EZ, or 1041.

OMB No. 1545-0140

**2006**Attachment  
Sequence No. **06**

Name(s) shown on tax return

Identifying number

**PHILBERT GORICK****072-76-8370****Do You Have To File Form 2210?**

Complete lines 1 through 7 below. Is line 7 less than \$1,000?	Yes	Do not file Form 2210. You do not owe a penalty.
No		
Complete lines 8 and 9 below. Is line 6 equal to or more than line 9?	Yes	You do not owe a penalty. Do not file Form 2210 (but if box E below applies, you must file page 1 of Form 2210).
No		
You may owe a penalty. Does any box in Part II below apply?	Yes	You must file Form 2210. Does box B, C, or D apply?
No		
No		You must figure your penalty.
Do not file Form 2210. You are not required to figure your penalty because the IRS will figure it and send you a bill for any unpaid amount. If you want to figure it, you may use Part III or Part IV as a worksheet and enter your penalty amount on your tax return, but do not file Form 2210.		You are not required to figure your penalty because the IRS will figure it and send you a bill for any unpaid amount. If you want to figure it, you may use Part III or Part IV as a worksheet and enter your penalty amount on your tax return, but file only page 1 of Form 2210.

**Part I Required Annual Payment** (see page 2 of the instructions)

1	Enter your 2006 tax after credits from Form 1040, line 57 (or comparable line of your return)	1	1194.
2	Other taxes, including self-employment tax (see page 3 of the instructions)	2	4676.
3	Refundable credits. Enter the total of your earned income credit, additional child tax credit, credit for federal tax paid on fuels, and health coverage tax credit	3	
4	Current year tax. Combine lines 1, 2, and 3. If less than \$1,000, see page 3 of the instructions	4	5870.
5	Multiply line 4 by 90% (.90)	5	5283.
6	Withholding taxes. Do not include estimated tax payments. See page 3 of the instructions	6	
7	Subtract line 6 from line 4. If less than \$1,000, you do not owe a penalty; do not file Form 2210	7	5870.
8	Maximum required annual payment based on prior year's tax (see page 3 of the instructions)	8	16136.
9	Required annual payment. Enter the smaller of line 5 or line 8	9	5283.

Next: Is line 9 more than line 6?

☐ No. You do not owe a penalty. Do not file Form 2210 unless box E below applies.☒ Yes. You may owe a penalty, but do not file Form 2210 unless one or more boxes in Part II below applies.

• If box B, C, or D applies, you must figure your penalty and file Form 2210.

• If only box A or E (or both) applies, file only page 1 of Form 2210. You are not required to figure your penalty; the IRS will figure it and send you a bill for any unpaid amount. If you want to figure your penalty, you may use Part III or Part IV as a worksheet and enter your penalty on your tax return, but file only page 1 of Form 2210.

**Part II Reasons for Filing.** Check applicable boxes. If none apply, do not file Form 2210.

- A ☐ You request a waiver (see page 2 of the instructions) of your entire penalty. You must check this box and file page 1 of Form 2210, but you are not required to figure your penalty.
- B ☐ You request a waiver (see page 2 of the instructions) of part of your penalty. You must figure your penalty and waiver amount and file Form 2210.
- C ☐ Your income varied during the year and your penalty is reduced or eliminated when figured using the annualized income installment method. You must figure the penalty using Schedule AI and file Form 2210.
- D ☐ Your penalty is lower when figured by treating the federal income tax withheld from your wages as paid on the dates it was actually withheld, instead of in equal amounts on the payment due dates. You must figure your penalty and file Form 2210.
- E ☐ You filed or are filing a joint return for either 2005 or 2006, but not for both years, and line 8 above is smaller than line 5 above. You must file page 1 of Form 2210, but you are not required to figure your penalty (unless box B, C, or D applies).

LHA For Paperwork Reduction Act Notice, see page 7 of separate instructions.

Form 2210 (1-000)

815-301  
01-0-07



Form 2210 (2006)

**Part III Short Method**

You may use the short method if:

- You made no estimated tax payments (or your only payments were withheld federal income tax), or
- You paid estimated tax in equal amounts on your due dates.

You must use the regular method (Part IV) instead of the short method if:

- You made any estimated tax payments late,
- You checked box C or D in Part II, or
- You are filing Form 1040NR or 1040NR-EZ and you did not receive wages as an employee subject to U.S. income tax withholding.

**TIP**

You do not need to file Form 2210 unless you checked a box in Part II on page 1.

**Note:** If any payment was made earlier than the due date, you may use the short method, but using it may cause you to pay a larger penalty than the regular method. If the payment was only a few days early, the difference is likely to be small.

10	Enter the amount from Form 2210, line 9	10	5283.
11	Enter the amount, if any, from Form 2210, line 6	11	
12	Enter the total amount, if any, of estimated tax payments you made	12	
13	Add lines 11 and 12	13	
14	Total underpayment for year. Subtract line 13 from line 10. If zero or less, stop here; you do not owe the penalty. Do not file Form 2210 unless you checked box E on page 1	14	5283.
15	Multiply line 14 by .05258 (use the factor shown in the instructions if you are eligible for Hurricane Katrina relief)	15	278.
16	<ul style="list-style-type: none"> <li>• If the amount on line 14 was paid on or after 4/15/07, enter -0-.</li> <li>• If the amount on line 14 was paid before 4/15/07, make the following computation to find the amount to enter on line 16.</li> </ul>		
	Amount on line 14 x Number of days paid before 4/15/07 x .00022	16	0.
17	Penalty. Subtract line 16 from line 15. Enter the result here and on Form 1040, line 77; Form 1040A, line 48; Form 1040NR, line 75; Form 1040NR-EZ, line 27; or Form 1041, line 26	17	278.

Form 2210 (2006)

81-602  
01-10-07

**SCHEDULES A&B  
(Form 1040)**Department of the Treasury  
Internal Revenue Service (99)**Schedule A - Itemized Deductions**

(Schedule B is on page 2)

▶ Attach to Form 1040. ▶ See instructions for Schedules A&amp;B (Form 1040).

OMB No. 1545-0074

**2006**Attachment  
Sequence No. 07

Name(s) shown on Form 1040

Your social security number

**PHILBERT GORICK****072 | 76 | 8370**

<b>Medical and Dental Expenses</b>	Caution. Do not include expenses reimbursed or paid by others.		
1	Medical and dental expenses (see page A-1)	1	
2	Enter amount from Form 1040, line 38	2	
3	Multiply line 2 by 7.5% (.075)	3	
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4	
<b>Taxes You Paid</b>	5 State and local income taxes	5	3763.
(See page A-3.)	6 Real estate taxes (see page A-3)	6	
	7 Personal property taxes	7	
	8 Other taxes. List type and amount	8	
	9 Add lines 5 through 8	9	3763.
<b>Interest You Paid</b>	10 Home mortgage interest and points reported to you on Form 1098	10	
(See page A-3.)	11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address	11	
Note. Personal interest is not deductible.	12 Points not reported to you on Form 1098.	12	
	13 Investment interest. Attach Form 4952 if required. (See page A-4.)	13	
	14 Add lines 10 through 13	14	
<b>Gifts to Charity</b>	15 Gifts by cash or check.	15	2880.
If you made a gift and got a benefit for it, see page A-4.	16 Other than by cash or check. If any gift of \$250 or more, see page A-5. You must attach Form 8283 if over \$500	16	500.
	17 Carryover from prior year	17	
	18 Add lines 15 through 17	18	3380.
<b>Casualty and Theft Losses</b>	19 Casualty or theft loss(es). Attach Form 4684. (See page A-6.)	19	
<b>Job Expenses and Certain Miscellaneous Deductions</b>	20 Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See page A-6.)	20	
(See page A-6.)	21 Tax preparation fees	21	
	22 Other expenses - investment, safe deposit box, etc. List type and amount	22	
	23 Add lines 20 through 22	23	
	24 Enter amount from Form 1040, line 38	24	
	25 Multiply line 24 by 2% (.02)	25	
	26 Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26	
<b>Other Miscellaneous Deductions</b>	27 Other - from list on page A-7. List type and amount	27	
<b>Total Itemized Deductions</b>	28 Is Form 1040, line 38, over \$150,500 (over \$75,250 if married filing separately)? <input checked="" type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 40. <input type="checkbox"/> Yes. Your deduction may be limited. See page A-7 for the amount to enter.	28	7141.
	29 If you elect to itemize deductions even though they are less than your standard deduction, check here	29	

LHA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule A (Form 1040) 2006

S. schedules A-B (Form 1040) 2006

OMB No. 1545-0074

Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on page 1.

Your social security number

PHILBERT GORICK

072 76 8370

## Schedule B - Interest and Ordinary Dividends

Attachment  
Sequence No. (18)**Part I**  
**Interest**

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ►

FCU

Amount

110.

Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 2 Add the amounts on line 1 ..... 2 110.
- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815 ..... 3
- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ..... 4 110.

Note. If line 4 is over \$1,500, you must complete Part III.

Amount

**Part II**  
**Ordinary Dividends**

- 5 List name of payer ►

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

- 6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9a ..... 6

Note. If line 6 is over \$1,500, you must complete Part III.

**Part III**  
**Foreign Accounts and Trusts**

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; or (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

Yes No

- 7a At any time during 2006, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? ..... K

- b If "Yes," enter the name of the foreign country ►

- 8 During 2006, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? ..... K

If "Yes," you may have to file Form 3520. See page B-2

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LHA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule B (Form 1040) 2006

10

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2006.06010 GORICK, PHILBERT

GOR83701

**SCHEDULE C**  
**(Form 1040)**Department of the Treasury  
Internal Revenue Service (90)**Profit or Loss From Business**

(Sole Proprietorship)

Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.

Attach to Form 1040, 1040NR, or 1041.

See instructions for Schedule C (Form 1040).

OMB No. 1545-0045

**2006**Attachment  
Sequence No. 09

Name of proprietor

Social security number (SSN)

**PHILBERT GORICK****072-76-8370**

A Principal business or profession, including product or service (see page C-2)

B Enter code from pages C-8, 9, 10

**NETWORK CONSULTANT****541510**

C Business name. If no separate business name, leave blank.

D Employer ID number (EIN), if any.

**1099 FROM CONCORD SERVICES****11-3012742**1 Business address (including suite or room no.) **1221 BEDFORD AVE**City, town or post office, state, and ZIP code **BROOKLYN NY 11216**1 Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) \_\_\_\_\_17 Did you "materially participate" in the operation of this business during 2006? If "No," see page C-3 for limit on losses ☒ Yes ☐ No18 If you started or acquired this business during 2006, check here ☐**Part I Income**

1 Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here <input type="checkbox"/>	1	102969.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	102969.
4 Cost of goods sold (from line 42 on page 2)	4	5612.
5 Gross profit. Subtract line 4 from line 3	5	97357.
6 Other income, including federal and state gasoline or fuel tax credit or refund (see page C-3)	6	
7 Gross income. Add lines 5 and 6	7	97357.

**Part II Expenses.** Enter expenses for business use of your home only on line 30.

8 Advertising	8		18 Office expense	18	9600.
9 Car and truck expenses (see page C-4)	9	4210.	19 Pension and profit-sharing plans	19	
10 Commissions and fees	10	29116.	20 Rent or lease (see page C-5):		
11 Contract labor (see page C-4)	11		a Vehicles, machinery, and equipment	20a	8988.
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see page C-4)	13		21 Repairs and maintenance	21	2018.
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	2611.
15 Insurance (other than health)	15	2998.	23 Taxes and licenses	23	325.
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	598.
b Other	16b		b Deductible meals and entertainment (see page C-6)	24b	
17 Legal and professional services	17	650.	25 Utilities	25	3149.
28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns	28	64263.	26 Wages (less employment credits)	26	
29 Tentative profit (loss). Subtract line 28 from line 7	29	33094.	27 Other expenses (from line 48 on page 2)	27	
30 Expenses for business use of your home. Attach Form 8829	30				
31 Net profit or (loss). Subtract line 30 from line 29.					
• If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (statutory employees, see page C-5). Estates and trusts, enter on Form 1041, line 3.					
• If a loss, you must go to line 32.					
32 If you have a loss, check the box that describes your investment in this activity (see page C-6).					
• If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3.					
• If you checked 32b, you must attach Form 6108. Your loss may be limited.					
	31	33094.			

32a ☐ All investment  
is at risk.  
32b ☐ Some investment  
is not at risk.

LHA For Paperwork Reduction Act Notice, see page C-8 of the instructions.

Schedule C (Form 1040) 2006

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19170910 800981 GOR8370

2006.06010 GORICK, PHILBERT

GOR83701

**Part III Cost of Goods Sold** (see page C-7)

- GOR83701

## Schedule C - Two-Year Comparison Worksheet

2006

Business Name:

1099 FROM CONCORD SERVICES

Description	Tax Year 2005	Tax Year 2006	Increase (Decrease)
<b>INCOME</b>			
Gross receipts or sales	102089.	102969.	880.
Less: Cost of goods sold	4323.	5612.	1289.
Gross profit	97766.	97357.	-409.
Gross income	97766.	97357.	-409.
<b>EXPENSES</b>			
Car and truck expenses	3763.	4210.	447.
Commissions and fees	2892.	29116.	26224.
Insurance	2799.	2998.	199.
Legal and professional services	650.	650.	0.
Office expense	9600.	9600.	0.
Rent/lease-Veh, machinery, & equip	8988.	8988.	0.
Repairs and maintenance	1866.	2018.	152.
Supplies	0.	2611.	2611.
Taxes and licenses	275.	325.	50.
Travel	0.	598.	598.
Utilities	3047.	3149.	102.
Total expenses	33880.	64263.	30383.
Net profit or (loss)	63886.	33094.	-30792.

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2006.06010 GORICK, PHILBERT

GOR83701



**SCHEDULE D**  
**(Form 1040)**

Department of the Treasury  
Internal Revenue Service (99)  
Name(s) shown on return

## Capital Gains and Losses

▶ Attach to Form 1040 or Form 1040NR. ▶ See instructions for Schedule D (Form 1040).

OMB No. 1545-0074

2006

Attachment  
Sequence No. 12

\_\_\_\_\_  
Your social security number

072 76 8370

PHILBERT GORICK

PHILBERT GORTER	
Part I	Short-Term Capital Gains and Losses - Assets Held One Year or Less

Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less					
(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss). Subtract (e) from (d)
1					
2	Enter your short-term totals, if any, from Schedule D-1, line 2		2		
3	Total short-term sales price amounts. Add lines 1 and 2 in column (d)		3		
4	Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824				4
5	Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1				5
6	Short-term capital loss carryover. Enter the amount, if any, from line 10 of your Capital Loss Carryover Worksheet in the instructions				6
7	Net short-term capital gain or (loss). Combine lines 1 through 6 in column (f)				7

7	Net short-term capital gain or (loss). Combine lines 1 through 6 in column (c).
<b>Part II</b>	<b>Long-Term Capital Gains and Losses - Assets Held More Than One Year</b>

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year					
(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) Subtract (e) from (d)
8					
9 Enter your long-term totals, if any, from Schedule D-1, line 9			9		
10 Total long-term sales price amounts. Add lines 8 and 9 in column (d)			10		
11 Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824					11
12 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1					12
13 Capital gain distributions					13
14 Long-term capital loss carryover. Enter the amount, if any, from line 15 of your Capital Loss Carryover Worksheet in the instructions					14 ( 2405 )
15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (f). Then go to Part III on page 2					15 -2405

**Liability** For Paperwork Reduction Act Notice, see Form 1040 or Form 1040NR instructions.

Schedule D (Form 1040) 2008

Schedule D (Form 1040) 2006 **PHILBERT GORICK**072-76-8370 Page **2****Part III Summary**

<b>16</b> Combine lines 7 and 15 and enter the result. If line 16 is a loss, skip lines 17 through 20, and go to line 21. If a gain, enter the gain on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below .....	<b>16</b>	-2405.
<b>17</b> Are lines 15 and 16 both gains? <input type="checkbox"/> Yes. Go to line 18. <input type="checkbox"/> No. Skip lines 18 through 21, and go to line 22.		
<b>18</b> Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet on page D-8 of the instructions .....	<b>18</b>	
<b>19</b> Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet on page D-9 of the instructions .....	<b>19</b>	
<b>20</b> Are lines 18 and 19 both zero or blank? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet on page 38 of the instructions for Form 1040 (or in the instructions for Form 1040NR). Do not complete lines 21 and 22 below. <input type="checkbox"/> No. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Schedule D Tax Worksheet on page D-10 of the instructions. Do not complete lines 21 and 22 below.		
<b>21</b> If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of: <ul style="list-style-type: none"> <li>• The loss on line 16 or</li> <li>• (\$3,000), or if married filing separately, (\$1,500) } .....</li> </ul>	<b>21</b>	( 2405.)
Note. When figuring which amount is smaller, treat both amounts as positive numbers.		
<b>22</b> Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet on page 38 of the instructions for Form 1040 (or in the instructions for Form 1040NR). <input checked="" type="checkbox"/> No. Complete the rest of Form 1040 or Form 1040NR.		

Schedule D (Form 1040) 2006

**SCHEDULE SE  
(Form 1040)**Department of the Treasury  
Internal Revenue Service (00)**Self-Employment Tax**

OMB No. 1545-0074

**2006**Attachment  
Sequence No. 17

▶ Attach to Form 1040. ▶ See instructions for Schedule SE (Form 1040).

Name of person with self-employment income (as shown on Form 1040)

Social security number of  
person with self-employment  
income

072 76 8370

**PHILBERT GORICK****Who Must File Schedule SE**

You must file Schedule SE if:

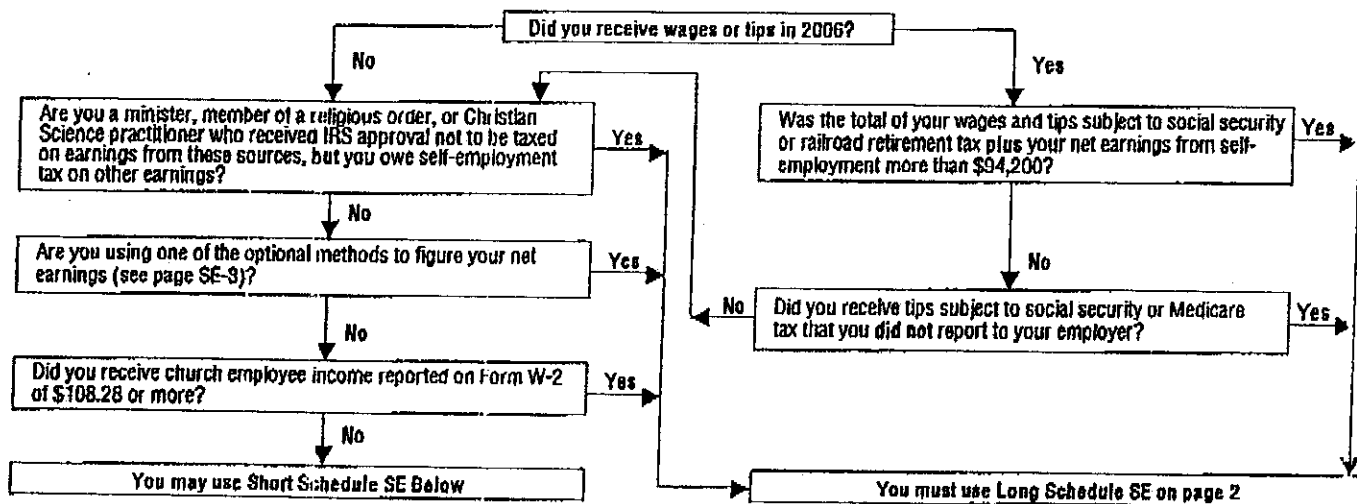
- You had net earnings from self-employment from other than church employee income (line 4 of Short Schedule SE or line 4c of Long Schedule SE) of \$400 or more, or
- You had church employee income of \$108.28 or more. Income from services you performed as a minister or a member of a religious order is not church employee income (see page SE-1).

**Note.** Even if you had a loss or a small amount of income from self-employment, it may be to your benefit to file Schedule SE and use either "optional method" in Part II of Long Schedule SE (see page SE-3).

**Exception.** If your only self-employment income was from earnings as a minister, member of a religious order, or Christian Science practitioner and you filed Form 4361 and received IRS approval not to be taxed on those earnings, do not file Schedule SE. Instead, write "Exempt-Form 4361" on Form 1040, line 58.

**May I Use Short Schedule SE or Must I Use Long Schedule SE?**

**Note.** Use this flowchart only if you must file Schedule SE. If unsure, see Who Must file Schedule SE, above.

**Section A-Short Schedule SE. Caution.** Read above to see if you can use Short Schedule SE.

1	Net farm profit or (loss) from Schedule F, line 36, and farm partnerships, Schedule K-1 (Form 1065), box 14, code A	1	
2	Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), box 14, code A (other than farming); and Schedule K-1 (Form 1065-E), box 9, code J1. Ministers and members of religious orders, see page SE-1 for amounts to report on this line. See page SE-3 for other income to report	2	33094.
3	Combine lines 1 and 2	3	33094.
4	Net earnings from self-employment. Multiply line 3 by 92.35% (.9235). If less than \$400, do not file this schedule; you do not owe self-employment tax	4	30562.
5	Self-employment tax. If the amount on line 4 is: <ul style="list-style-type: none"> <li>• \$94,200 or less, multiply line 4 by 15.3% (.153). Enter the result here and on Form 1040, line 58.</li> <li>• More than \$94,200, multiply line 4 by 2.9% (.029). Then, add \$11,680.80 to the result. Enter the total here and on Form 1040, line 58.</li> </ul>	5	4676.
6	Deduction for one-half of self-employment tax. Multiply line 5 by 50% (.5). Enter the result here and on Form 1040, line 27	6	2338.

LHA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule SE (Form 1040) -006

Schedule A	State and Local Income Taxes	Statement	1
------------	------------------------------	-----------	---

Description	Amount
New York Prior Year Balance Due and Extension Payments	3763.
Total to Schedule A, line 5	3763.

Schedule A	Contributions Other Than Cash or Check	Statement	2
------------	--	-----------	---

Description	Amount 100% Limit	Amount 50% Limit	Amount 30% Limit	Amount 20% Limit
SALVATION ARMY		500.		
Subtotals		500.		
Total to Schedule A, line 16				500.

Schedule SE	Non-Farm Income	Statement	3
-------------	-----------------	-----------	---

Description	Amount
NETWORK CONSULTANT	33094.
Total to Schedule SE, line 2	33094.

For office use only

New York State Department of Taxation and Finance  
**Cover Sheet for Form IT-201**  
**Resident Income Tax Return**  
 New York State • New York City • Yonkers

2006

**IT-201**

This is the cover sheet of your return. For your return to be complete you must include this cover sheet with all four pages of Form IT-201 and all required attachments.

Taxpayer name and address		Software vendor code <b>1019</b>	
Your social security number <b>072-76-8370</b>		Spouse's social security number	
Your first name and m.i. <b>PHILBERT</b>		Your last name <b>GORICK</b>	
Spouse's first name and m.i.		Spouse's last name	
Mailing address (number and street or rural route) <b>166-05 HIGHLAND AVE</b>		Apartment number <b>6M</b>	
City, village or post office <b>JAMAICA</b>		State <b>NY</b>	Zip code <b>11432</b>
Summary of return data			
Federal adjusted gross income .....		<b>20912.</b>	
Total NYS adjusted gross income .....		<b>20912.</b>	
Total New York State tax withheld .....			
Total New York City tax withheld .....			
Total Yonkers tax withheld .....			
Amount to be refunded to you .....			
Amount you owe .....		<b>873.</b>	

601000  
11-24-06

Slide check or  
multiply order  
etc.

0731061019

File this original scannable cover sheet  
with all four pages of your tax return.



0731061019

2006

New York State Department of Taxation and Finance

**Resident Income Tax Return (long form)****IT-201**

New York State • New York City • Yonkers

For the full year January 1, 2006, through December 31, 2006, or fiscal year beginning ...

For help completing your return, see the combined instr., Form IT-150/201-I, or the IT-RP-1 resident packet instr.

and ending ...

**Important:** You must enter your social security number(s) in the boxes to the right.

Your first name and middle initial

Your last name (for a joint return, enter spouse's name on line below)

▼ Your social security number

**PHILBERT****GORICK****072-76-8370**

Spouse's first name and middle initial

Spouse's last name

▼ Spouse's social security number

Mailing address (see instructions, page 77) (number and street or rural route)

Apartment number

New York State county of residence

**166-05 HIGHLAND AVE****6M**

•

City, village, or post office

State

ZIP code

School district name

**JAMAICA****NY****11432**• **Brooklyn**

Permanent home address (see instructions, page 77) (number and street or rural route)

Apartment number

School district code number ... **071**

City, village, or post office

State

ZIP code

Decedent information:

Taxpayer's date of death

Spouse's date of death

**NY****(A) Filing**

status -

☒ **X** Single

mark an

☐ **(2)**

Married filing joint return

(enter spouse's social security number above)

X in

☐ **(3)**

Married filing separate return

(enter spouse's social security number above)

one box

☐ **(4)**

Head of household (with qualifying person)

☐ **(5)**

Qualifying widow(er) with dependent child

**(B) Did you itemize your deductions on your 2006 federal income tax return?** Yes ☒ **X** No**(C) Can you be claimed as a dependent on another taxpayer's federal return?** Yes No ☒ **X****(D) If you do not need a NYS income tax forms packet mailed to you next year, mark an X in the box (see page 78).** ...**(E) Did you or your spouse maintain living quarters in NYC during 2006 (see page 78)?** Yes ☒ **X** No**(F) NYC residents and NYC part-year residents only (see page 79):**(1) Number of months you lived in NY City in 2006 ..... • **12**

(2) Number of months your spouse lived in NY City in 2006 ..... •

**(G) Enter your 2-digit special condition code number if applicable (see page 79).** •

If applicable, also enter your second 2-digit special condition code number. •

**Federal income and adjustments**

Only full-year NY State residents may file this form. For lines 1 through 18 below, enter your income items and total adjustments as they appear on your federal return (see page 80). Also see page 80 instructions for showing a loss.

Dollars

1 Wages, salaries, tips, etc. ....	1.	
2 Taxable interest income ....	2.	110.
3 Ordinary dividends .....	3.	
4 Taxable refunds, credits, or offsets of state and local income taxes (also enter on line 25 on page 2) .....	4.	
5 Alimony received .....	5.	
6 Business income or loss (attach a copy of federal Schedule C or C-EZ, Form 1040) .....	6.	33094.
7 Capital gain or loss (if required, attach a copy of federal Schedule D, Form 1040) .....	7.	-2405.
8 Other gains or losses (attach a copy of federal Form 4797) .....	8.	
9 Taxable amount of IRA distributions. If received as a beneficiary, mark an X in the box .....	9.	
10 Taxable amount of pensions and annuities. If received as a beneficiary, mark an X in the box .....	10.	
11 Rental real estate, royalties, partnerships, S corporations, trusts, etc. (attach copy of federal Schedule E, Form 1040) .....	11.	
12 Farm income or loss (attach a copy of federal Schedule F, Form 1040) .....	12.	
13 Unemployment compensation .....	13.	
14 Taxable amount of social security benefits (also enter on line 27 on page 2) .....	14.	
15 Other income (see page 80) Identify: .....	15.	
16 Add lines 1 through 15 .....	16.	30799.
17 Total federal adjustments to income (see page 80) Identify: See Statement 1 .....	17.	9887.
18 Subtract line 17 from line 16. This is your federal adjusted gross income. ....	18.	20912.

(continued on page 2)

00.001  
11 15-06You must file all four pages of this original  
scannable return with the Tax Department.

2011061019





Page 2 of 4 IT-201 (2006)

▼ Enter your social security number

072-76-8370

Dollars

19 Enter the amount from line 18 on page 1. This is your federal adjusted gross income. 19. 20912.

**New York additions** (see page 81)

20 Interest income on state and local bonds and obligations (but not those of NY State or its local governments) 20.

21 Public employee 414(h) retirement contributions from your wage and tax statements (see page 82) 21.

22 New York's 529 college savings program distributions (see page 82) 22.

23 Other (see page 83) Identify: 23.

24 Add lines 19 through 23 24. 20912.

**New York subtractions** (see page 86)

25 Taxable refunds, credits, or offsets of state and local income taxes (from line 4 on page 1) 25.

26 Pensions of NYS and local governments and the federal government (see pg. 86) 26.

27 Taxable amount of social security benefits (from line 14 on page 1) 27.

28 Interest income on U.S. government bonds 28.

29 Pension and annuity income exclusion (see page 86) 29.

30 New York's 529 college savings program deduction / earnings 30.

31 Other (see page 87) Identify: 31.

32 Add lines 25 through 31 32.

33 Subtract line 32 from line 24. This is your New York adjusted gross income. 33. 20912.

**Standard deduction or itemized deduction** (see page 92)

34 Enter your standard deduction (from the table below) or your itemized deduction (from the worksheet below). Mark an X in the appropriate box: ☒ X Standard ... or ... ☐ Itemized 34. 7500.

35 Subtract line 34 from line 33 (if line 34 is more than line 33, leave blank) 35. 13412.

36 Dependent exemptions (not the same as total federal exemptions; see page 94) 36.

37 Subtract line 36 from line 35. This is your taxable income. 37. 13412.

OR

**New York State  
standard deduction table**

Filing status	Standard deduction - enter on line 34 above.
(1) Single and you marked item C on page 1 Yes	\$ 3,000
(1) Single and you marked item C on page 1 No	7,500
(2) Married filing joint return	15,000
(3) Married filing separate return	7,500
(4) Head of household (with qualifying person)	10,500
(5) Qualifying widow(er) with dependent child	15,000

**New York State itemized deduction worksheet**

a Medical and dental expenses (from federal Sch. A, line 4) a.

b Taxes you paid (from federal Schedule A, line 9) b. 3763.

c Interest you paid (from federal Schedule A, line 14) c.

d Gifts to charity (from federal Schedule A, line 18) d. 3380.

e Casualty and theft losses (from federal Sch. A, line 19) e.

f Job expenses and most other miscellaneous  
deductions (from federal Schedule A, line 26) f.

g Other miscellaneous deductions (from federal  
Schedule A, line 27) g.

h Enter amount from federal Schedule A, line 28 h. 7143.

i State, local, and foreign income taxes and other  
subtraction adjustments (see page 92) i. 3763.

j Subtract line i from line h j. 3380.

k Addition adjustments (see page 93) k.

l Add lines j and k l. 3380.

m Itemized deduction adjustment (see page 94) m.

n Subtract line m from line i n. 3380.

o College tuition itemized deduction (see Form IT-272) o.

p Add lines n and o. This is your New York State  
itemized deduction; enter on line 34 above. p. 3380.

(continued on page 3)

69-002  
11-20-06You must file all four pages of this original  
scannable return with the Tax Department.

2012061019



Name(s) as shown on page 1  
**PHILBERT GORICK**

▼ Enter your social security number  
**072-76-8370**

IT-201 (2006) Page 3 of 4

**Tax computation, credits, and other taxes** (see page 95)

Dollars

38	Enter the amount from line 37 on page 2. This is your taxable income.	38.	13412.
39	New York State tax on line 38 amount (see page 95 and Tax Computation on page 54)	39.	585.
40	New York State household credit (from table 1, 2, or 3 on pages 95 and 96)	40.	40.
41	Resident credit (attach Form IT-112-R or IT-112-C, or both; see page 95)	41.	
42	Other New York State nonrefundable credits (from Form IT-201-ATT, line 7; attach form)	42.	
43	Add lines 40, 41, and 42	43.	40.
44	Subtract line 43 from line 39 (if line 43 is more than line 39, leave blank)	44.	545.
45	Net other New York State taxes (from Form IT-201-ATT, line 30; attach form)	45.	
46	Add lines 44 and 45. This is the total of your New York State taxes.	46.	545.

**New York City and Yonkers taxes, credits, and tax surcharges**

47	New York City resident tax on line 38 amount (see page 96)	47.	399.	New York City (NYC) and Yonkers residents only: See instructions beginning on page 96 for figuring NYC and Yonkers taxes, credits and tax surcharges.
48	New York City household credit (from table 4, 5, or 6 on page 97)	48.		
49	Subtract line 48 from line 47 (if line 48 is more than line 47, leave blank)	49.	399.	
50	Part-year New York City resident tax (attach Form IT-360.1)	50.		
51	Other New York City taxes (from Form IT-201-ATT, line 34; attach form)	51.		
52	Add lines 49, 50, and 51	52.	399.	
53	NY City nonrefundable credits (from Form IT-201-ATT, line 10; attach form)	53.		
54	Subtract line 53 from line 52 (if line 53 is more than line 52, leave blank)	54.	399.	
55	Yonkers resident income tax surcharge (see page 98)	55.		
56	Yonkers nonresident earnings tax (attach Form Y-203)	56.		
57	Part-year Yonkers resident income tax surcharge (attach Form IT-360.1)	57.		
58	Add lines 54 through 57. This is the total of your New York City and Yonkers taxes / surcharges.	58.	399.	
59	<b>Sales or use tax</b> See the instructions beginning on page 66. Do not leave line 59 blank.	59.	0.	

**Voluntary contributions** (whole dollar amounts only; see page 99)

60a	Return a Gift to Wildlife	60a.	
60b	Missing/Exploited Children Fund	60b.	
60c	Breast Cancer Research Fund	60c.	
60d	Alzheimer's Fund	60d.	
60e	Olympic Fund (\$2 or \$4; see page 99)	60e.	
60f	Prostate Cancer Research Fund	60f.	
60g	WTC Memorial Fund	60g.	
60	Add lines 60a through 60g. This is your total voluntary contributions.	60.	
61	Add lines 46, 58, 59, and 60. This is your total New York State, New York City, and Yonkers taxes, sales or use tax, and voluntary contributions.	61.	944.

(continued on page 4)

6-8003  
11-15-06

You must file all four pages of this original  
 scannable return with the Tax Department.

2013061019



072-76-8370

62 Enter the amount from line 61 on page 3. This is your total New York State, New York City, and Yonkers taxes, sales or use tax, and voluntary contributions. 62. 944.

**Payments and refundable credits** (see page 100)

63 Empire State child credit (attach new Form IT-213) 63.  
64 NY State child and dependent care credit (attach Form IT-216) 64.  
65 NY State earned income credit (attach Form IT-215 or IT-209) 65.  
66 NY State noncustodial parent EIC (attach new Form IT-209) 66.  
67 Real property tax credit (attach Form IT-214) 67.  
68 College tuition credit (attach Form IT-272) 68.  
69 NY City school tax credit (also complete (F) on page 1; see page 101) 69. 115.  
70 NY City earned income credit (attach Form IT-215 or IT-209) 70.  
71 Other refundable credits (from Form IT-201-ATT, line 18; attach form) 71.  
72 Total New York State tax withheld 72.  
73 Total New York City tax withheld 73.  
74 Total Yonkers tax withheld 74.  
75 Total estimated tax payments / Amount paid with Form IT-370 75.  
76 Add lines 63 through 75. This is the total of your payments 76. 115.

Forms IT-2 and/or IT-1099-R must be completed and attached to your return instead of federal Forms W-2 and/or 1099-R.

Staple them (and any other applicable forms) to the top of this page 4.

See Step 11 on page 108 for the proper assembly of your four-page return and all attachments.

**Your refund / amount overpaid** (see page 103)

77 If line 76 is more than line 62, subtract line 62 from line 76 77.  
78 Amount of line 77 that you want refunded to you (for Direct Deposit, see Account information on line 82) **Refund** 78.  
79 **Estimated tax only** Amount of line 77 that you want applied to your 2007 estimated tax. (Do not include any amount that you claimed as a refund on line 78.) 79.

**Amount you owe** (see page 104)

80 If line 76 is less than line 62, subtract line 76 from line 62. (For Payment options, see page 104; for electronic funds withdrawal, see Account information on line 82 below) **Owe** 80. 873.  
81 Estimated tax penalty (include this amount on line 80, or reduce the overpayment on line 77. See page 104.) 81. 44.

**Account information** (see page 105)

82 Mark one box: ☐ Refund - Direct Deposit ... or ... ☐ Owe -  
a Routing number: ☐  
b Account number: ☐  
c Type: ☐ Checking ☐ Savings  
Third-party Do you want to allow another person to discuss this return with the Tax Dept? (see page 107) Yes No  
designee Designee's name Designee's phone number

Electronic funds withdrawal effective date:

You can choose to have your refund directly deposited into your bank account. Or, you can have the amount of any New York State tax you owe automatically withdrawn from your bank account. See the instructions on page 105 and fill in lines 82, and 82a, b, and c.

**Sign your return below**  
(complete the following) No

Personal identification number (PIN) \_\_\_\_\_

**Sign your return here**

Preparer's signature

Your signature

Preparer's SSN or PTIN  
P00645698

Employer identification number  
11-2973690

Your occupation: **NETWORK CONSULTANT**  
Spouse's signature (if joint return)

Firm's name (or yours, if self-employed)

**JOHN TURIS ENTERPRISES INC**  
As: 1003

Mark an X if  
self-employed:

Spouse's occupation (if joint return):

**4713-15 AVENUE N**  
**BROOKLYN NY 11234**

Date  
**09-10-2007**

Date

Daytime phone number

Mail your completed return and any attachments to:

86-004  
11-20-06

**STATE PROCESSING CENTER**  
**PO BOX 61000**  
**ALBANY NY 12261-0001**

2014081019

You must file all four pages of this original scannable return with the Tax Department.



2006

New York State Department of Taxation and Finance

**Underpayment of Estimated Income Tax  
By Individuals and Fiduciaries****IT-2105.9**

New York State • New York City • Yonkers

For January 1 - December 31, 2006, or fiscal year  
beginning ending 2006.

Name(s) as shown on return

PHILBERT GORICK

Identification number (SSN or EIN)

072-76-8370

**Part 1 - All filers must complete this part (see instructions, Form IT-2105.9-1, for assistance)**

1	Total tax from your 2006 return before withholding and estimated tax payments (caution: see instructions)	1.	944.
2	Empire State child credit (from Form IT-150, line 38, or Form IT-201, line 63)	2.	
3	NY State child and dependent care credit (from Form IT-150, line 39; or Form IT-201, line 64)	3.	
4	NY State earned income credit (EIC) (from Form IT-150, line 40; or Form IT-201, line 65)	4.	
5	NY State noncustodial parent EIC (from Form IT-150, line 41; or Form IT-201, line 66)	5.	
6	Real property tax credit (from Form IT-150, line 42 or Form IT-201, line 67)	6.	
7	College tuition credit (from Form IT-150, line 43; or Form IT-201, line 68)	7.	
8	NY City school tax credit (from Form IT-150, line 44; Form IT-201, line 69; or Form IT-203, line 80)	8.	115.
9	NY City earned income credit (from Form IT-150, line 45; or Form IT-201, line 70)	9.	
10	Other refundable credits (from Form IT-201, line 71; Form IT-203, line 81; or Form IT-205, line 39)	10.	
11	Add lines 2 through 10	11.	115.
12	Current year tax (subtract line 11 from line 1)	12.	829.
13	Multiply line 12 by 90% (.90)	13.	746.
14	Income taxes withheld from Form IT-150, lines 46, 47, and 48; Form IT-201, lines 72, 73, and 74; Form IT-203, lines 62, 63, and 64; or Form IT-205, lines 34, 35, and 36	14.	
15	Subtract line 14 from line 12. If the result is less than \$300, do not complete the rest of this form (see instructions)	15.	829.
16	Enter your 2005 tax (caution: see instructions)	16.	3763.
17	Enter the smaller of line 13 or line 16	17.	746.

**Part 2 - Short method for figuring the penalty - Complete lines 18 through 24 if you paid withholding tax and/or paid four equal estimated tax installments (on the due dates), or if you made no payments of estimated tax. Otherwise, you must complete Part 3 - Regular method.**

18	Enter the amount from line 14 above	18.	
19	Enter the total amount of estimated tax payments you made	19.	
20	Add lines 18 and 19	20.	
21	Total underpayment for year. Subtract line 20 from line 17 (if zero or less, you do not owe the penalty)	21.	746.
22	Multiply line 21 by .05920 and enter the result	22.	14.
23	If the amount on line 21 was paid on or after April 15, 2007, enter 0. If the amount on line 21 was paid before April 15, 2007, make the following computation to find the amount to enter on this line: Amount on line 21 x number of days paid before April 15, 2007, x .00024 =	23.	0.
24	Penalty. Subtract line 23 from line 22. Enter here and on Form IT-150, line 55; Form IT-201, line 81; Form IT-203, line 71 or Form IT-205, line 42	24.	14.

**Part 3 - Regular method - Schedule A - Figuring your underpayment (Schedule B is on page 2)**

Payment due dates	A 4/15/06	B 6/15/06	C 9/15/06	D 1/15/07
25 Required installments. Enter 1/4 of line 17 in each column. (If you used the annualized income installment method, see instructions)	25.			
26 Estimated tax paid and tax withheld (see inst)	26.			
Complete lines 27 through 29, one column at a time, starting in column A.				
27 Overpayment or underpayment from prior period	27.			
28 If line 27 is an overpayment, add lines 26 and 27; if line 27 is an underpayment, subtract line 27 from line 26	28.			
29 Underpayment (subtract line 28 from line 25) or overpayment (subtract line 25 from line 28)	29.			

008051  
01-11-07

0591061019



Please file this original scannable form with the Tax Department.

IT-2105.9 (2006) (page 2)

## Part 3 - Regular method - Schedule B - Figuring the penalty

Payment due dates	A 4/15/06	B 6/15/06	C 9/15/06	D 1/15/07
30 Amount of underpayment (from line 29)	30.			

## First installment (April 15 - June 15, 2006)

$$31 \text{ April 15 - June 15} = \frac{61}{365} \times 8\% = .01336$$

or

$$\text{April 15 - } = \frac{\quad}{365} \times 8\% = .$$

31.

32 Multiply line 30, column A by line 31 32.

## Second installment (June 15 - September 15, 2006)

$$33 \text{ June 15 - June 30} = \frac{15}{365} \times 8\% = .00328$$

$$\text{July 1 - September 15} = \frac{71}{365} \times 9\% = .01898$$

or

$$\text{June 15 - } = \frac{\quad}{365} \times 8\% = .$$

33.

34 Multiply line 30, column B by line 33 ..... 34.

## Third installment (September 15, 2006 - January 15, 2007)

$$35 \text{ September 15 - January 15} = \frac{122}{365} \times 9\% = .03007$$

or

$$\text{September 15 - } = \frac{\quad}{365} \times 9\% = .$$

35.

36 Multiply line 30, column C by line 35 ..... 36.

## Fourth installment (January 15 - April 15, 2007)

$$37 \text{ January 15 - April 15} = \frac{90}{365} \times 9\% = .02218$$

or

$$\text{January 15 - } = \frac{\quad}{365} \times 9\% = .$$

37.

38 Multiply line 30, column D by line 37 ..... 38.

39 Penalty. Add lines 32, 34, 36, and 38. Enter here and on Form IT-150, line 55; Form IT-201, line 81; Form IT-203, line 71; or Form IT-205, line 42 ..... 39.

Attach both pages of this form to the back of your New York State return.

0592061019



PHILBERT GORICK

NY IT-201	Federal Adjustments to Income	Statement	1
Description	Amount		
One-Half of SE Tax	2338.		
Self-Employed Health Insurance	7549.		
Total to Form IT-201, line 17	9887.		



**SCHEDULE C**  
**(Form 1040)**Department of the Treasury  
Internal Revenue Service (90)**Profit or Loss From Business**

(Sole Proprietorship)

Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.

Attach to Form 1040, 1040NR, or 1041.

See instructions for Schedule C (Form 1040).

OMB No. 1545-007

**2006**Attachment  
Sequence No. 09

Name of proprietor

Social security number (SSN)

**PHILBERT GORICK****072-76-8370**

A Principal business or profession, including product or service (see page C-2)

B Enter code from pages C-8, 9, 1, 10

**NETWORK CONSULTANT****541510**

C Business name. If no separate business name, leave blank.

D Employer ID number (EIN). If an

**1099 FROM CONCORD SERVICES****11-3012742**1 Business address (including suite or room no.) **1221 BEDFORD AVE**City, town or post office, state, and ZIP code **BROOKLYN NY 11216**1 Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) **▶**ii Did you "materially participate" in the operation of this business during 2006? If "No," see page C-3 for limit on losses ☒ Yes ☐ Noiii If you started or acquired this business during 2006, check here ☐**Part I Income**1 Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here ☐**1 102969.**

2 Returns and allowances

**2**

3 Subtract line 2 from line 1

**3 102969.**

4 Cost of goods sold (from line 42 on page 2)

**4 5612.**

5 Gross profit. Subtract line 4 from line 3

**5 97357.**

6 Other income, including federal and state gasoline or fuel tax credit or refund (see page C-3)

**6**

7 Gross income. Add lines 5 and 6

**7 97357.****Part II Expenses.** Enter expenses for business use of your home only on line 30.

8 Advertising

**8**

18 Office expense

**18 9600.**

9 Car and truck expenses

**9 4210.**

19 Pension and profit-sharing plans

**19**

10 Commissions and fees

**10 29116.**

20 Rent or lease (see page C-5):

**20a 8918.**

11 Contract labor

**11**

a Vehicles, machinery, and equipment

**20b**

(see page C-4)

**11**

b Other business property

**21 2018.**

12 Depletion

**12**

21 Repairs and maintenance

**22 2611.**

13 Depreciation and section 179

**13**

22 Supplies (not included in Part III)

**23 315.**

expense deduction (not included in

**13**

23 Taxes and licenses

**24a 5118.**

Part III) (see page C-4)

**13**

24 Travel, meals, and entertainment:

**24b**

14 Employee benefit programs (other

**14**

a Travel

**24b**

than on line 19)

**14**

b Deductible meals and

**25 3149.**

15 Insurance (other than health)

**15 2998.**

entertainment (see page C-6)

**26**

16 Interest

**16a**

25 Utilities

**26**

a Mortgage (paid to banks, etc.)

**16b**

26 Wages (less employment credits)

**27**

b Other

**16b**

27 Other expenses (from line 48 on

**27**

17 Legal and professional

**17 650.**

page 2)

**28 64213.**

services

**17 650.**

28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns

**28 64213.**

29 Tentative profit (loss). Subtract line 28 from line 7

**29 33014.**

30 Expenses for business use of your home. Attach Form 8829

**30**

31 Net profit or (loss). Subtract line 30 from line 29.

**31 33014.**

- If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3.
- If a loss, you must go to line 32.

32 If you have a loss, check the box that describes your investment in this activity (see page C-6).

- If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3.
- If you checked 32b, you must attach Form 8198. Your loss may be limited.

32a ☐ All investment  
is at risk.  
32b ☐ Some investment  
is not at risk.

I HA For Paperwork Reduction Act Notice, see page C-8 of the instructions.

Schedule C (Form 1040) 2006





Schedule D (Form 1040) 2008 **PHILBERT GORICK**072-76-8370 Page **2****Part III Summary**

16	Combine lines 7 and 15 and enter the result. If line 16 is a loss, skip lines 17 through 20, and go to line 21. If a gain, enter the gain on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below	16	-2405.
17	Are lines 15 and 16 both gains? <input type="checkbox"/> Yes. Go to line 18. <input type="checkbox"/> No. Skip lines 18 through 21, and go to line 22.		
18	Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet on page D-8 of the instructions	18	
19	Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet on page D-9 of the instructions	19	
20	Are lines 18 and 19 both zero or blank? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet on page 38 of the instructions for Form 1040 (or in the instructions for Form 1040NR). Do not complete lines 21 and 22 below. <input type="checkbox"/> No. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Schedule D Tax Worksheet on page D-10 of the instructions. Do not complete lines 21 and 22 below.		
21	If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of: <ul style="list-style-type: none"><li>The loss on line 16 or</li><li>(\$3,000), or if married filing separately, (\$1,500)</li></ul>	21	( 2405.)
Note. When figuring which amount is smaller, treat both amounts as positive numbers.			
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet on page 38 of the instructions for Form 1040 (or in the instructions for Form 1040NR). <input checked="" type="checkbox"/> No. Complete the rest of Form 1040 or Form 1040NR.		

Schedule D (Form 1040) 2008



FINANCE  
NEW YORK  
THE CITY OF NEW YORK  
DEPARTMENT OF FINANCE  
NYC.gov/finance

# **NYC UNINCORPORATED 202 BUSINESS TAX RETURN** FOR INDIVIDUALS, ESTATES AND TRUSTS

DO NOT WRITE IN THIS SPACE - FOR OFFICIAL USE ONLY

For CALENDAR YEAR 2006 or FISCAL YEAR beginning

2006 and ending

2006

Amended return \* Final return \* Check box if you have ceased operations. Attach copy of your entire federal Form 1040 and statement showing disposition of business property.

Check "yes" if you claim any 9/11/01-related federal tax benefits (see inst.) \* YES

Check "yes" if electing books and records allocation (see inst.) \* YES

First name and initial Last name  
**PHILBERT GORICK**

Business name  
**PHILBERT GORRICK**

Business address (number and street)  
**166-05 HIGHLAND AVE**

City and State ZIP Code  
**JAMAICA NY 11432**

Business Telephone Number Date business began (mm/dd/yyyy)  
**01-01-01**

INDIVIDUALS ENTER SOCIAL SECURITY NUMBER  
**072-76-8370**

ESTATES AND TRUSTS ENTER EMPLOYER IDENTIFICATION NUMBER

NEW YORK STATE SALES TAX ID NUMBER - ENTER 9, 10 OR 11 DIGIT

BUSINESS CODE NUMBER -> FROM FEDERAL SCHEDULE C  
**541510**

## **SCHEDULE A Computation of Tax**

BEGIN WITH SCHEDULE B ON PAGE 2. COMPLETE ALL OTHER SCHEDULES. TRANSFER APPLICABLE AMOUNTS TO SCHEDULE A.

Payment Enclosed

A.	Payment	Pay amount shown on line 31 - Make check payable to: NYC Department of Finance	
1.	Business income (from page 2, Schedule B, line 28)	1.	33094.
2.	Business allocation percentage: check method used to allocate - if not allocating, enter 100% • formula (from Schedule C, line 5) • separate books and records (omit % & attach sch.)	2.	100.00 %
3.	If line 2 is less than 100%, enter income or loss on NYC real property (see instructions)	3.	
4.	Balance (line 1 less line 3)	4.	
5.	Multiply line 4 by the business allocation percentage on line 2	5.	
6.	Amount from line 3 (NYC real property income and gain not subject to allocation) (see instructions)	6.	
7.	Investment income (from page 2, Schedule B, line 27b)	7.	
8.	Investment allocation percentage (from page 3, Schedule D, line 2)	8.	%
9.	Multiply line 7 by the investment allocation percentage from line 8 (see instructions)	9.	
10.	Total before NOL deduction (sum of lines 5, 6 and 9 or line 1 and line 9) (see instructions for line 2)	10.	33094.
11.	Deduct: NYC net operating loss deduction (from page 4, Schedule E, line B) (see instructions)	11.	
12.	Balance before allowance for taxpayer's services (line 10 less line 11)	12.	33094.
13.	Less: allowance for taxpayer's services - do not enter more than 20% of line 12 or \$5,000, whichever is less	13.	5000.
14.	Balance before exemption (line 12 less line 13)	14.	28094.
15.	Less: exemption - \$5,000 (taxpayer operating more than one business or short period taxpayer, see instructions)	15.	5000.
16.	Taxable income (line 14 less line 15) (see instructions)	16.	23094.
17.	TAX: 4% of amount on line 16	17.	924.
18.	Add: Sales tax addback (see instructions)	18.	
19.	Total tax before business tax credit (add line 17 and line 18)	19.	924.
20.	Less: business tax credit (select the applicable credit condition from the Business Tax Credit Computation schedule on page 2 and enter amount)	20.	924.
21.	UNINCORPORATED BUSINESS TAX (line 19 less line 20) (see instructions)	21.	0.
22a.	Credits from Form NYC-114.5 (attach form) (see instructions)	22a.	
22b.	Credits from Form NYC-114.6 (attach form) (see instructions)	22b.	
22c.	Credits from Form NYC-114.8 (attach form) (see instructions)	22c.	
22d.	Credits from Form NYC-114.9, line 11 (attach form) (see instructions)	22d.	
23.	Net tax after credits (line 21 less sum of lines 22a, 22b, 22c and 22d)	23.	0.
24.	Payment of estimated Unincorporated Business Tax, including carryover credit from preceding year and payment with extension, NYC-82	24.	
25.	If line 23 is larger than line 24, enter balance due	25.	
26.	If line 23 is smaller than line 24, enter overpayment	26.	
27a.	Interest (see instructions)	27a.	
27b.	Additional charges (see instructions)	27b.	
27c.	Penalty for underpayment of estimated tax (attach form NYC-221)	27c.	
28.	Total of lines 27a, 27b and 27c	28.	
29.	Net overpayment (line 26 less line 28) (see instructions)	29.	
30.	Amount of line 29 to be: (a) Refunded (b) Credited to 2007 Estimated Tax on Form NYC-20ET	30a.	
31.	Total remittance due (see instructions) Enter payment amount on line A above	31.	8988.
32.	NYC Rent from Schedule C part 1, or rent deducted on federal return. (THIS LINE MUST BE COMPLETED)	32.	102969.
33.	Gross receipts or sales from federal return	33.	

8946217/2-02-05



Form NYC-202 2006

Name **PHILBERT GORICK**SSN/EIN **072-76-8370****SCHEDULE B** Computation of Total Income - IF ALLOCATING BY SEPARATE BOOKS AND RECORDS, ENTER THE ALLOCATED AMOUNTS**Part 1** Items of business income, gain, loss or deduction

1. Net profit (or loss) from business, farming or professions as reported for federal tax purposes from federal Schedule C, C-EZ or F (Form 1040) (see instructions) • 1. 33094.
2. If entering income from more than one federal Schedule C, C-EZ or F (Form 1040), check this box • 2.     
Enter the number of Schedules C, C-EZ or F attached:
3. Gain (or loss) from sale of business personal property or business real property (attach federal Schedule D or Form 4797) • 3.
4. Net amount of rental or royalty income from business personal property or business real property (attach federal Schedule E) (see instructions) • 4.
5. Other business income (or loss) (attach schedule) (see instructions) • 5.
6. Total federal income (or loss) (combine lines 1 through 5) • 6. 33094.
7. Subtract net income or gain (or add net loss) from rental, sale or exchange of real property situated outside New York City, if included in line 3 or 4 above (attach schedule) (see instructions) 7.
8. Total income before New York City modifications (combine lines 6 and 7) 8. 33094.

**Part 2** New York City modifications (see instructions for Schedule B, part 2)**ADDITIONS**

9. All income taxes and Unincorporated Business Taxes 9.
- 10a. Sales and use tax credit 10a.
- 10b. Relocation credits 10b.
- 10c. Expenses related to exempt income 10c.
- 10d. Depreciation adjustments (attach Form NYC-399 and/or NYC-399Z) 10d.
- 10e. Real estate additions (see instructions) 10e.
11. Other additions (attach schedule) (see instructions) 11.
12. Total additions (add lines 9 through 11) • 12.

**SUBTRACTIONS**

13. All income tax and Unincorporated Business Tax refunds (included in part 1) 13.
14. Sales and use tax refunds from vendors or NY State (included in part 1 and also included on page 1, Schedule A, line 18) 14.
15. Wages and salaries subject to federal jobs credit (attach federal Form 5884 or 8884) 15.
16. Depreciation adjustment (attach Form NYC-399 and/or NYC-399Z) 16.
17. Exempt income included in part 1 (attach schedule) 17.
18. 50% of dividends (see instructions) 18.
19. Real estate subtractions (see instructions) 19.
20. Other subtractions (attach schedule) (see instructions) 20.
21. Total subtractions (add lines 13 through 20) • 21.
22. NYC modifications (combine lines 12 and 21) 22.
23. Total income (combine lines 8 and 22) (see instructions) 23. 33094.
24. Less: Charitable contributions (not to exceed 5% of line 23) (see instructions) 24.
25. Balance (line 23 less line 24) 25. 33094.
26. Investment income - (complete lines a through g below) (see instructions)
  - (a) Dividends from stocks held for investment 26a.
  - (b) Interest from investment capital (include non-exempt governmental obligations) (itemize on rider) 26b.
  - (c) Net capital gain (loss) from sales or exchanges of securities held for investment 26c.
  - (d) Income from assets included on line 3 of Schedule D 26d.
  - (e) Add lines 26a through 26d inclusive 26e.
  - (f) Deductions directly or indirectly attributable to investment capital 26f.
  - (g) Interest on bank accounts included in income reported on line 26d 26g.
- 27a. Investment income (line 26e less line 26f) • 27a.
- 27b. Investment income to be allocated (enter on pg 1, Sch A, line 7) (see instructions) • 27b.
28. BUSINESS INCOME (line 25 less line 27b) (enter here and transfer amount to pg 1, Sch. A, line 1) 28. 33094.

**Business Tax Credit Computation**

1. If the amount on page 1, line 19, is \$1,800 or less, your credit on line 20 is the entire amount of tax on line 19. (NO TAX WILL BE DUE.)
2. If the amount on page 1, line 19, is \$3,200 or over, no credit is allowed. Enter "0" on line 20.

3. If the amount on page 1, line 19, is over \$1,800 but less than \$3,200, your credit is computed by the following formula:

$$\text{amount on pg. 1, line 19} \times \left( \frac{\$3,200 \text{ minus tax on line 19}}{\$1,400} \right) = \text{your credit}$$



Page 3

SSN / EIN 072-76-8370

**Taxpayers who carry on business both inside and outside New York City should complete Schedule C, Parts 1, 2 and 3 (below). Attach separate schedule if allocating by separate books and records. See "Highlights of Recent Tax Law Changes for Unincorporated Businesses." On Schedule A, line 2, check method**

used to allocate and enter percentage from Part 3, line 5 rounded to the nearest one hundredth of a percentage point. Taxpayers who do not carry on business both inside and outside New York City should omit Schedule C, Parts 1 and 2 (below), enter 100% on Part 3, line 5 and enter 100% on Schedule A, line 2.

Part 1	List location of each place of business INSIDE New York City, nature of activities at each location (manufacturing, sales office, executive office, public warehouse, contractor, converter, etc.), and number of employees, their wages, salaries and duties at each location.				
Complete Address	Rent	Nature of Activities	Number of Employees	Wages, Salaries, etc.	Duties
Total					

[illegible]

DESCRIPTION OF ITEMS USED AS FACTORS		* COLUMN A - NEW YORK CITY	* COLUMN B - EVERYWHERE	* COLUMN C
1.	Average value of the real and tangible personal property of the business (see instructions)			PERCENTAGE IN NEW YORK CITY
a.	Business real property owned ..... 1a.			(COLUMN A DIVIDED BY COLUMN B)
b.	Business real property rented from others (rent x 5) ..... 1b.			
c.	Business tangible personal property owned ..... 1c.			
d.	Business tangible personal property rented from others (rent x 5) ..... 1d.			
e.	Total of lines 1a through 1d ..... 1e.			%
2.	Wages, salaries and other personal service compensation paid to employees during the year ..... 2.			%
3a.	Gross sales of merchandise or charges for services during the year ..... 3a.			%
3b.	Optional additional gross income factor for manufacturers (enter amount from line 3a, see instructions) ... 3b.			%
4.	Sum of percentages in column C			%
5.	BUSINESS ALLOCATION PERCENTAGE (divide total percentage (line 4) by 3 or actual number of percentages used if more or less than 3) (round to the nearest one hundredth of a percentage point and enter here and transfer to page 1, Schedule A, line 2) ..... 5.			%
6.	IS ANY PLACE OF BUSINESS LISTED IN PARTS 1 AND 2 LOCATED IN YOUR HOME? .....			YES NO
7.	DID YOU CLAIM A DEDUCTION FOR EXPENSES OF AN OFFICE IN YOUR HOME? .....			YES NO

A DESCRIPTION OF INVESTMENT <small>LIST EACH STOCK AND SECURITY (USE RIDER IF NECESSARY)</small>	B No. of Shares or Amount of Securities	C Average Value	D Liabilities Attributable to Investment Capital	E Net Average Value <small>(column C minus column D)</small>	F Issuer's Allocation Percentage	G Value Allocated to NYC <small>(column E x column F)</small>
Totals (including items on rider) -----▶						
Investment allocation percentage (line 1G divided by line 1E, round to the nearest one hundredth of a percentage point)						%
Cash - (To treat cash as investment capital, you must include it on this line) -----▶						
Investment capital -----▶						

Name PHILBERT GORICKSSN / EIN 072-76-8370**SCHEDULE E** New York City Net Operating Loss Carryforward Deduction

COMPLETE A SEPARATE SCHEDULE FOR EACH LOSS YEAR. ATTACH A DETAILED SCHEDULE FOR EACH APPLICABLE LINE.

1. Enter allocated NYC net operating loss amount incurred for loss year ended: \_\_\_\_\_ 1. \_\_\_\_\_
2. Enter amount of line 1 previously absorbed by year ended: \_\_\_\_\_ 2. \_\_\_\_\_
3. Enter amount of line 1 previously absorbed by year ended: \_\_\_\_\_ 3. \_\_\_\_\_
4. Enter amount of line 1 previously absorbed by year ended: \_\_\_\_\_ 4. \_\_\_\_\_
5. Add lines 2, 3 and 4 plus any additional year(s) \_\_\_\_\_ 5. \_\_\_\_\_
6. Subtract line 5 from line 1 \_\_\_\_\_ 6. \_\_\_\_\_
7. Enter amount from page 1, Schedule A, line 10 \_\_\_\_\_ 7. \_\_\_\_\_
8. Enter the lesser of line 6 or 7. This is your net operating loss deduction. Enter here and transfer amount to page 1, Schedule A, line 11 \_\_\_\_\_ 8. \_\_\_\_\_

**SCHEDULE F** The following information must be entered for this return to be complete.

1. Nature of business or profession: NETWORK CONSULTANT
2. Did you file a New York City Unincorporated Business Tax Return for the following years:  
 2004 ☒ YES ☐ NO  
 2005 ☒ YES ☐ NO  
 If "NO," state reason: \_\_\_\_\_
3. Enter home address: 166-05 HIGHLAND AVE Apt. No. 6M  
JAMAICA NY ZIP Code: 11432
4. If business terminated during the current taxable year, state date terminated. (mm/dd/yy) \_\_\_\_\_  
 (Attach a statement showing disposition of business property.)
5. Has the Internal Revenue Service or the New York State Department of Taxation and Finance increased or decreased any taxable income (loss) reported in any tax period, or are you currently being audited? \_\_\_\_\_ YES ☒ NO  
 If "YES", by whom? \_\_\_\_\_ Internal Revenue Service State period(s): Beg.: \_\_\_\_\_ End.: \_\_\_\_\_  
 \_\_\_\_\_ New York State Department of Taxation and Finance State period(s): Beg.: \_\_\_\_\_ End.: \_\_\_\_\_
6. Has Form NYC-115 (Report of Federal/State Change in Taxable Income) been filed? \_\_\_\_\_ YES ☒ NO
7. Did you calculate a depreciation deduction by the application of the federal Accelerated Cost Recovery System (ACRS)? \_\_\_\_\_ YES ☒ NO
8. Were you a participant in a "Safe Harbor Leasing" transaction during the period covered by this return? \_\_\_\_\_ YES ☒ NO

PREPAYMENTS CLAIMED ON SCHEDULE A, LINE 24	DATE	AMOUNT	TWELVE DIGIT TRANSACTION ID CODE
A. Payment with declaration, Form NYC-SUBTI (1) .....			
B. Payment with Notice of Estimated Tax Due (2) .....			
C. Payment with Notice of Estimated Tax Due (3) .....			
D. Payment with Notice of Estimated Tax Due (4) .....			
E. Payment with extension, Form NYC-62 .....			
F. Overpayment credited from preceding year .....			
G. TOTAL of A, B, C, D, E, F and amount from Form NYC-114.9, line 14 (enter on Schedule A, line 24) .....			

## CERTIFICATION

I hereby certify that this return, including any accompanying rider, is, to the best of my knowledge and belief, true, correct and complete. I authorize the Department of Finance to discuss this return with the preparer listed below. (see instructions) ... YES <input checked="" type="checkbox"/>			
SIGN HERE	Signature of taxpayer:	Title:	Date: _____
	Preparer's Social Security Number or P.O. #		
PREPARER'S USE ONLY	Preparer's signature:	Preparer's printed name:	Date: <u>09-10-07</u>
	Firm's Employer Identification Number:		
<u>JOHN TURIS ENTERPRISES INC</u> <u>4713-15 AVENUE N</u> <u>BROOKLYN NY 11234</u>		Check if self-employed <input type="checkbox"/>	
Firm's name		Address	ZIP Code
Attach copy of federal Form 1040, Schedule C or Schedule C-EZ. If this is a final return, attach an entire copy of federal Form 1040.		To receive proper credit, you must enter your correct Social Security Number or Employer Identification Number on your tax return and remittance.	
Make remittance payable to the order of: NYC DEPARTMENT OF FINANCE. Payment must be made in U.S. dollars, drawn on a U.S. bank.			

MAILING INSTRUCTIONS

 RETURNS WITH REMITTANCES  
 NYC DEPARTMENT OF FINANCE  
 P.O. BOX 5040  
 KINGSTON, NY 12402-5040

 RETURNS CLAIMING REFUNDS  
 NYC DEPARTMENT OF FINANCE  
 P.O. BOX 5050  
 KINGSTON, NY 12402-5050

 ALL OTHER RETURNS  
 NYC DEPARTMENT OF FINANCE  
 P.O. BOX 5060  
 KINGSTON, NY 12402-5060

The due date for the calendar year 2006 is on or before April 18, 2007. For fiscal years beginning in 2006, file on or before the 15th day of the fourth month following the close of the fiscal year.

**SCHEDULE C  
(Form 1040)**Department of the Treasury  
Internal Revenue Service (IRS)

Name of proprietor

**Profit or Loss From Business**

(Sole Proprietorship)

Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.

Attach to Form 1040, 1040NR, or 1041.

See instructions for Schedule C (Form 1040).

OMB No. 1545-007

**2006**Attachment  
Sequence No. 09

Social security number (SSN)

072-76-8370

**PHILBERT GORICK**

A Principal business or profession, including product or service (see page C-2)

B Enter code from pages C-8, 9, &amp; 10

541510

**NETWORK CONSULTANT**

C Business name. If no separate business name, leave blank.

D Employer ID number (EIN), if any

11-3012742

**1099 FROM CONCORD SERVICES**F Business address (including suite or room no.) **1221 BEDFORD AVE**City, town or post office, state, and ZIP code **BROOKLYN NY 11216**G Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) **▶**H Did you "materially participate" in the operation of this business during 2006? If "No," see page C-3 for limit on losses ☒ Yes ☐ NoI If you started or acquired this business during 2006, check here ☐**Part I Income**1 Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here ☐

1 102969.

2 Returns and allowances

2

3 Subtract line 2 from line 1

3 102969.

4 Cost of goods sold (from line 42 on page 2)

4 5612.

5 Gross profit. Subtract line 4 from line 3

5 97357.

6 Other income, including federal and state gasoline or fuel tax credit or refund (see page C-3)

6

7 Gross income. Add lines 5 and 6

7 97357.

**Part II Expenses. Enter expenses for business use of your home only on line 30.**

8 Advertising

18 Office expense 18 9600.

9 Car and truck expenses

19 Pension and profit-sharing plans 19

(see page C-4) 9 4210.

20 Rent or lease (see page C-5):

10 Commissions and fees 10 29116.

a Vehicles, machinery, and equipment 20a 8988.

11 Contract labor

b Other business property 20b

(see page C-4) 11

21 Repairs and maintenance 21 2018.

12 Depreciation

22 Supplies (not included in Part III) 22 2611.

13 Depreciation and section 179

23 Taxes and licenses 23 325.

expense deduction (not included in

24 Travel, meals, and entertainment:

Part III) (see page C-4) 13

a Travel 24a 598.

14 Employee benefit programs (other

b Deductible meals and

than on line 19) 14

entertainment (see page C-6) 24b

15 Insurance (other than health) 15 2998.

25 Utilities 25 3149.

16 Interest:

26 Wages (less employment credits) 26

a Mortgage (paid to banks, etc.) 16a

27 Other expenses (from line 48 on

b Other 16b

page 2) 27

17 Legal and professional

services 17 650.

28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns

28 64263.

29 Tentative profit (loss). Subtract line 28 from line 7

29 33094.

30 Expenses for business use of your home. Attach Form 8829

30

31 Net profit or (loss). Subtract line 30 from line 29.

31

• If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 19 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3.

• If a loss, you must go to line 32.

32 If you have a loss, check the box that describes your investment in this activity (see page C-6).

• If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 19 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3.

• If you checked 32b, you must attach Form 6198. Your loss may be limited.

32a ☐ All investment  
is at risk.  
32b ☐ Some investment  
is not at risk.

LHA For Paperwork Reduction Act Notice, see page C-8 of the instructions.

Schedule C (Form 1040) 2006

02-0001 11-03-06



**JUDGE DANIELS**

**07**

**CV**

**2529**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PHILBERT GORRICK,

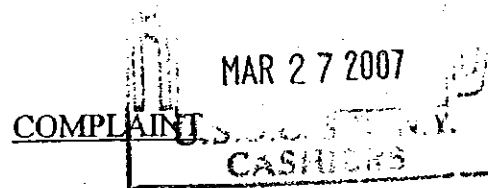
Plaintiff,

- against -

NEW YORK CITY TRANSIT  
AUTHORITY,

Defendant.

07 Civ.



PLAINTIFF DEMANDS  
TRIAL BY JURY IN  
THIS ACTION

Plaintiff Philbert Gorrick ("Gorrick"), by his attorneys, Schwartz, Lichten & Bright, P.C., complains of defendant New York City Transit Authority ("TA"), as follows:

JURISDICTION AND VENUE

1. This is an action brought to remedy discrimination in employment on the basis of disability, in violation of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq. ("ADA"); the New York State Human Rights Law, Executive Law § 290 et seq. ("Human Rights Law"); and the Administrative Code of the City of New York, § 8-101 et seq. ("Administrative Code").
2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(4), and 1367, and 42 U.S.C. § 12117(a).
3. Declaratory and injunctive relief, damages, and other appropriate legal and equitable relief are sought pursuant to 42 U.S.C. § 12117(a). Compensatory damages are sought pursuant to 42

U.S.C. § 1981a; Executive Law § 297(9); and Administrative Code, § 8-502(a). Punitive damages are sought pursuant to 42 U.S.C. § 1981a and Administrative Code, § 8-502(a).

4. Costs and attorney's fees are sought pursuant to 42 U.S.C. § 12117(a) and Administrative Code, § 8-502(f).

5. Venue is proper in the Southern District of New York, pursuant to 28 U.S.C. § 1391(b), because the unlawful employment practices occurred within this judicial district.

6. Plaintiff filed a charge of discrimination against defendant with the U.S. Equal Employment Opportunity Commission ("EEOC") on August 10, 2006. The United States Department of Justice, on March 22, 2007, issued plaintiff a notice informing him of his right to sue defendant. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court under the ADA.

#### PARTIES

7. Gorrick has been employed by the TA since July 1991. His initial position was Power Cable Maintainer Helper, followed by Light Maintainer. In 1993, the TA promoted Gorrick to Power Cable Maintainer. He was most recently assigned to the 100 Locust Avenue maintenance center in the Bronx, New York.

8. Defendant is a public authority created under the laws of the State of New York to operate the New York City subway and bus system.



### FACTS

9. For several decades, Gorrick has been diagnosed with severe venous stasis disease, with stasis dermatitis and recurrent ulcers in the ankle region. Due to this disability, Gorrick occasionally has difficulty standing and walking, but he always has been able to perform the essential functions of a Power Cable Maintainer.

10. On October 9, 2000, the TA suspended Gorrick because he was not wearing a certain type of boot. Gorrick was wearing the same type of boot he had worn since he first started working as a Power Cable Maintainer Helper in 1991.

11. Gorrick was unable to wear the boot newly required by the TA because of his disability but Gorrick could perform the essential functions of his job without wearing that boot.

12. Over the next six years, Gorrick, his union, Transport Workers Union of America, Local 100, AFL-CIO, and the TA, attempted to arrive at a reasonable accommodation in various forums, including numerous grievance hearings; nine days of arbitration over four years; and many medical examinations.

13. On August 16, 2006, the TA reached its final medical determination that Gorrick was physically unable to perform the duties of a Power Cable Maintainer, due to his inability to wear the boot required for the first time in October 2000.

### FIRST CAUSE OF ACTION

14. The TA has not allowed Gorrick to return to his position as Power Cable Maintainer because Gorrick has a physical impairment that substantially limits at least two of Gorrick's major

life activities, standing and walking. Defendant therefore discriminated against plaintiff because of his disability. By its acts and practices described above, defendant has violated the ADA.

15. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer injury unless and until this Court grants relief. Defendant engaged in these discriminatory practices with malice and with reckless indifference to plaintiff's rights protected under federal law.

### SECOND CAUSE OF ACTION

16. By its acts and practices described above, defendant has violated the Human Rights Law.

17. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

### THIRD CAUSE OF ACTION

18. By its acts and practices described above, defendant has violated the Administrative Code.

19. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment:

### ON THE FIRST CAUSE OF ACTION

(a) declaring that the acts and practices complained of herein are in violation of the ADA;

(b) enjoining and permanently restraining these violations of the ADA;

(c) directing defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect plaintiff's employment opportunities;

(d) directing defendant to place plaintiff in the position he would have continued to occupy but for defendant's discriminatory treatment of him, and make him whole for all earnings he would have received but for defendant's discriminatory treatment, including but not limited to wages, bonuses, pensions, and other lost benefits;

(e) directing defendant to pay plaintiff compensatory and punitive damages and damages for his mental anguish and humiliation;

(f) awarding plaintiff reasonable attorney's fees and the costs of this action;

(g) granting such other and further relief as this Court deems just and proper;

ON THE SECOND CAUSE OF ACTION

(h) awarding compensatory damages in an amount not yet ascertained;

ON THE THIRD CAUSE OF ACTION

(i) awarding compensatory and punitive damages in an amount not yet ascertained; and

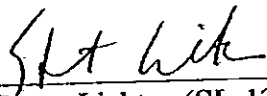
(j) awarding plaintiff reasonable attorney's fees and costs of this action;

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all of the causes of action herein.

Dated: New York, New York  
March 26, 2007

SCHWARTZ, LICHTEN & BRIGHT, P.C.

  
By: Stuart Lichten (SL-1258)  
Attorneys for Plaintiff  
113 University Place - 11th Floor  
New York, New York 10003  
(212) 228-6320

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
PHILBERT GORRICK,

Plaintiff,

- against -

NEW YORK CITY TRANSIT AUTHORITY

Defendant.  
-----

x **DEFENDANT'S FIRST  
INTERROGATORIES  
AND REQUEST FOR  
PRODUCTION OF  
DOCUMENTS**

:

:

CV-07-2529 (GBD)

x

**PLEASE TAKE NOTICE** that pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure and Rule 26.3 of the Civil Rules for the Southern and Eastern Districts of New York, defendant NEW YORK CITY TRANSIT AUTHORITY by its attorney, MARTIN B. SCHNABEL, Vice President and General Counsel, New York City Transit Authority, Ann Burton Goetcheus, Assistant General Counsel, of Counsel, demand that you, within thirty days after service of these interrogatories and document requests, serve upon the undersigned separate and complete answers, sworn to under oath, to each interrogatory set forth, and produce the documents requested.

The interrogatories and request to produce documents shall be deemed to continue beyond the date when you serve the responses upon defendant. You shall supplement the responses to these interrogatories and request to produce documents if any further knowledge, information or documents are acquired by you, your agents, representatives, or attorneys subsequent to the date of the original responses.

**Instructions to Responses**

Unless otherwise indicated, the time period covered by these requests is 1998 to the present.

The responses to the interrogatories shall set forth each question in full before each answer. Separate answers shall be provided in response to each interrogatory, and when an interrogatory has subdivisions, each subdivision shall be answered separately. In accordance with Rule 33 of the Federal Rules of Civil Procedure, you must sign the response to the interrogatories.

You must produce the documents required, or a true, complete and legible copy thereof, at the office of the undersigned if the documents are in the possession, custody or control of you or your attorneys. You are to provide the undersigned with an appropriate release if the documents requested are not in your possession, custody or control.

Consistent with the definitions set forth in Rule 26.3 of the Civil Rules of the Southern and Eastern Districts of New York, the following definitions apply:

The term "document" is used in its customarily broad sense and includes all written, typed, printed, recorded statements, photographs, communications or other matter, however produced or reproduced. Further, the term "document" includes all non-identical copies in whatever form maintained, including but not limited to correspondence, memoranda, notes, journals, diaries, log-books, minutes, audiotapes, computerized files, or electronic mail.

"Communications" includes oral, written, or electronic communications made by or on behalf of the plaintiff.



The term "incident" or "incidents" is used to refer to all of the facts and circumstances which provide the basis for this action, including all the facts, events and occurrences that are alleged in your complaint and any amended complaint, and all facts and circumstances directly or indirectly related thereto.

Each request herein extends to all documents in your possession, custody or control or anyone acting on your behalf. A document is deemed to be in your possession, custody or control if it is in the physical custody of any other person and you: (1) own such document in whole or in part; (2) have a right by contract, law or otherwise to use, inspect, examine or copy such document on any terms; (3) have an understanding, express or implied, that you may use, inspect, examine, or copy such document on any terms; or (4) as a practical matter, you have been able to use, inspect, examine, or copy such document when you sought to do so. If any requested document was but no longer is in your control, state the disposition of each such document.

Provide the following information for each document that is withheld on the grounds of privilege or attorney work product:

- a. Its date;
- b. Its title;
- c. Its author;
- d. Its addressee;
- e. The identity of each person who received and/or saw the original or copy of it;
- f. The specific privilege under which it is withheld; and
- g. A description sufficient to support your contention that the document is privileged.

If any requested document has been lost or destroyed, set forth a complete statement of the circumstances surrounding such loss or destruction. If any requested document has been destroyed pursuant to a system of retaining or purging documents or files, set forth in detail all aspects of that policy, including but not limited to:

- a. Any memoranda or other documents which memorialize all document retention policies, including the identity of the person who is responsible for such policies; prepared the documents.
- b. The method or means of destruction for documents relevant to this action;
- c. The date of the document's destruction;
- d. The identity of the person responsible for the destruction.

If an objection is made to any request, state the objection and the ground upon which it is made. Unless otherwise stated, the applicable time period is from January 1, 1998 to the present.

### **INTERROGATORIES**

1. Describe each and every incident that you claim support your claim(s) of discrimination and identify each and every person who, in your opinion, was responsible in any way for any discriminatory or allegedly wrongful acts.

2. Identify each and every individual who witnessed or participated in any part of the events alleged in the complaint, including any allegedly wrongful acts. If you do not know the individual's name, give a detailed physical description of the individual, including approximate age, height, weight, gender, race, complexion, hair color, and clothing worn and the individual's title.

3. Identify each and every union representative, official or attorney with whom you have discussed or who otherwise has knowledge of the grievances you have filed against the Transit Authority or its agents.

4. Identify each and every union representative, official and/or attorney who appeared with or for you at each Step 1, 2, or 3 or arbitration hearings.

5. Identify all documents provided to or received from the union that represented you.

6. Identify any and all documents prepared by or for you or by anyone else on your behalf or otherwise which relate to the allegations in the complaint, including but not limited to letters, complaints, grievances, notes, reports, forms, journals, transcripts, calendars, diaries, log-books, witness statements, photographs, audio or video recordings, or electronic mail.

7. Identify each and every health care provider, including but not limited to hospitals, clinics, physicians, therapists, social workers, psychiatrists and psychologists from whom you have requested or received examination or treatment since 1993, and state the date(s) and nature of such examination or treatment or request for treatment.

8. If you or your attorney or anyone else on your behalf, including any person employed by, or connected with, your attorney, consulted any person holding him/herself out to be an expert or consultant in any field, including any medical, psychological, or related field, concerning any issues in this case, including the issue of damages, identify each person giving his/her name, address, telephone number, and field of expertise, the name, address, and telephone number of his/her employer, the date of the

first contact or consultation with him/her, whether any written or oral report was made by him/her. If any written report was made, please produce a copy of each report, the date of each report, state whether each report was written or oral, if any writing was made, including a written report, please provide a copy of that writing and/or report, and whether you expect to call him/her at trial.

9. Detail each and every category of damages and expenses sustained by you or anyone else on your behalf as a result of the alleged incident, including but not limited to medical expenses, lost earnings, and out-of-pocket expenses, and any compensation received in reimbursements of these damages or expenses. Identify all documents which in any way tend to substantiate these damages, expenses, and reimbursements, including but not limited to bills, proof of payment thereof, receipts for out-of-pocket expenses, insurance claim forms, pay stubs, and state and federal income tax returns for the past five years.

10. Identify each and every person who may have knowledge or information relevant to each and every damage amount sought in this action and for each person identified in paragraph "9" provide the address and telephone number of the person and the employer of the person.

11. Identify each person you intend to call as a witness at trial.

12. State whether you have ever been a party (plaintiff or defendant) to any civil action or proceeding (other than this action). If so, as to each action or proceeding, identify: the nature of the action or proceeding, its name or caption, index number and the court in which it was brought; its status or disposition. State whether you have ever testified or been a witness in any other action or proceeding.

13. Identify a.) your physical or mental impairment(s) and b.) the major life activity(ies) substantially limited by the alleged impairment(s), as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102(2)(A).

14. Identify any and all accommodations you requested to enable you to perform the essential functions of your job as a Power Cable Maintainer, the individual(s) to whom each such accommodation request was addressed and the date, time and location of the request(s).

15. Identify each and every job, full time or part time, including self-employment, that you have held from the suspension of your employment by the New York City Transit Authority in October 2000 to the present and, for each, supply:

- a. The name and address of the employer;
- b. The dates of such employment;
- c. Whether such employment was full or part time;
- d. The position you held; and
- e. The wages or remuneration received (either weekly or annually).

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

As described in the instructions above, the term "document" includes all written, typed, printed, recorded statements, photographs, communications or other matters, however produced or reproduced. Further, the term "document" includes all non-identical copies in whatever form maintained, including but not limited to correspondence, memoranda, notes, journals, log-books, diaries, minutes, audiotapes, computerized files or electronic.

1. Produce copies of all documents, if any, used in any way when preparing the complaint.
2. Produce copies of documents identified in response to the interrogatories above or used in responding to interrogatories above.
3. Produce copies of all grievances and any grievance related documents filed or received by you or on your behalf.
4. Produce copies of inter-office memoranda, notes, letters or other communications that concern you, or your complaints of discrimination.
5. Produce copies of documents, reports, memoranda, etc. concerning any promotion for which you applied, including, but not limited to, the job posting notice, your application and transmittal letter and any related correspondence.
6. Produce copies of documents, reports, memoranda, etc. concerning any charges you filed with the New York State Division of Human Rights, the United States Equal Employment Opportunity Commission or any other entity or person.
7. Produce copies of documents, reports, memoranda, etc. concerning any claims for unemployment insurance benefits, social security disability benefits, Medicaid, state disability benefits and/or Workers' Compensation benefits filed by you or on your behalf.
8. Produce copies of documents, reports, memoranda, etc. concerning your damages.
9. Complete and provide written releases that will permit defendant to contact your employers since your suspension in October 2000 and to receive copies of your employment records. Complete a separate release for each employer.

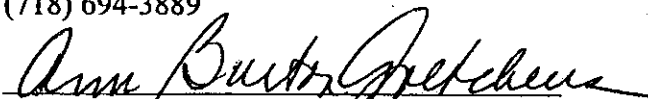


10. Produce copies of medical records dating from 1993 to the present or, if copies are unavailable, complete and provide written releases which would permit defendant to obtain copies of all records relating to the medical and/or psychiatric/psychological examination or treatment identified in responses to the interrogatories above. Complete a separate release for each medical facility or treating physician, psychiatrist, psychologist, social worker or therapist from whom you have sought treatment or been treated by. Releases for records from Dr. Jennifer Svahn, Elmhurst Hospital, Beth Israel Hospital, Queens Medical Care, Hillside Focus Care, Mary Immaculate Hospital, Lenox Hill Hospital and Boro Medical, P.C. are attached for your authorization.

11. Provide a copy of your federal and state tax returns and supporting documents for each of the following tax years: 1999 to the present.

Dated: Brooklyn, New York  
May 25, 2007

**MARTIN B. SCHNABEL**  
Vice President and General Counsel  
NEW YORK CITY TRANSIT AUTHORITY  
Attorney for Defendant  
130 Livingston Street, Room 1243  
Brooklyn, NY 11201  
(718) 694-3889

By:   
**Ann Burton Goetcheus (ABG-7265)**  
Assistant General Counsel

To: **Stuart Lichten, Esq. (SL-1258)**  
**Schwartz, Lichten & Bright, P.C.**  
**113 University Place -11<sup>th</sup> Floor**  
**New York, NY 10003**  
**(212) 228-6320**

**AUTHORIZATION FOR RELEASE OF RECORDS**

**TO:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**YOU ARE HEREBY AUTHORIZED** to permit the New York City Transit Authority, through its authorized representative, to gain access to and make or receive copies of any and all employment records, including all records from informal, sealed or any other files, however maintained or designated.

\_\_\_\_\_  
Philbert Gorrick SS#: 072-76-8370

STATE OF NEW YORK    )  
                                  )ss:  
COUNTY OF                )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me personally came and appeared before me Philbert Gorrick to me known and known to me to be the individual described in and who executed the foregoing release and who duly acknowledged to me that he executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

**AUTHORIZATION FOR THE USE AND DISCLOSURE  
OF PROTECTED HEALTH INFORMATION**

I hereby authorize the use and disclosure of my protected health information as follows:

*Information to be Used or Disclosed:* a copy of any and all records of the examination or treatment of Philbert Gorrick, including but not limited to reports, charts, diagnoses, test results, psychiatric/psychological records, psychological test instruments, prescriptions and invoices relating to psychiatric and other evaluations, including but not limited to the physical evaluations performed on or about March 14, 2000 and October 2, 2001. Philbert Gorrick, was born 11/28/54, Social Security No. 072-76-8370, of Jamaica, New York.

*Persons Authorized to Make Requested Disclosure:*  
Elmhurst Hospital Center – Renee Spiegel, M.D.  
79-01 Broadway  
Elmhurst, N.Y. 11373  
(718) 334-4000

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

I understand that: (1) I may revoke this authorization in writing at any time except to the extent that the disclosing party has taken action in reliance on this authorization; (2) the disclosing party may not condition treatment, payment, enrollment or eligibility for benefits on my willingness to sign this authorization; and (3) any information disclosed under this authorization may be subject to redisclosure by the recipient and may no longer be protected by law.

By: \_\_\_\_\_  
[Name of Individual or Personal Representative]

Date: \_\_\_\_\_

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]

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*Persons Authorized to Make Requested Disclosure:*

Beth Israel Hospital – Medical Records Correspondence  
First Avenue & 16<sup>th</sup> Street  
Room L 30  
New York, N.Y. 10003  
(212) 420-2665

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

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By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Name of Individual or Personal Representative]

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]

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OF PROTECTED HEALTH INFORMATION**

I hereby authorize the use and disclosure of my protected health information as follows:

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*Persons Authorized to Make Requested Disclosure:*

Queens Medical Care – Naheed Sultana, M.D.  
70-05 Highland Avenue  
Jamaica Estate, N.Y. 11432  
(718) 206-2222

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

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By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Name of Individual or Personal Representative]

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]

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OF PROTECTED HEALTH INFORMATION**

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*Persons Authorized to Make Requested Disclosure:*

Hillside Focus Care – Olayiwola Ola, M.D.  
170-06 Hillside Avenue  
Jamaica, N.Y. 11432  
(718) 206-3915

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

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By: \_\_\_\_\_  
[Name of Individual or Personal Representative]

Date: \_\_\_\_\_

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]



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OF PROTECTED HEALTH INFORMATION**

I hereby authorize the use and disclosure of my protected health information as follows:

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*Persons Authorized to Make Requested Disclosure:*

St. Vincent – Mary Immaculate Hospital  
152-11 89<sup>th</sup> Avenue  
Jamaica, N.Y. 11432  
(718) 558-2000

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

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[Name of Individual or Personal Representative]

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]

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I hereby authorize the use and disclosure of my protected health information as follows:

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*Persons Authorized to Make Requested Disclosure:*  
Lenox Hill Hospital – Department of Medical Records  
100 East 77<sup>th</sup> Street  
New York, N.Y. 10021  
(212) 434-2420

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

*Expiration Date or Event of the Authorization:*

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[Name of Individual or Personal Representative]

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*Persons Authorized to Make Requested Disclosure:*

Boro Medical, P.C.  
164-01 Goethals Avenue  
Jamaica, N.Y. 11432  
(718) 820-9365

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

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[Name of Individual or Personal Representative]

Date: \_\_\_\_\_

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*Persons Authorized to Make Requested Disclosure:*

Dr. Jennifer Svahn, MD, FACS  
Beth Israel Medical Center  
Milton and Carol Petrie Division  
First Avenue at 16<sup>th</sup> Street  
New York, N.Y. 10003

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

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*Persons Authorized to Make Requested Disclosure:*

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

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[Name of Individual or Personal Representative]

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*Persons Authorized to Make Requested Disclosure:*

*Persons to Whom the Disclosure May be Made:* Ann Burton Goetcheus, Esq., Executive Agency Counsel, New York City Transit Authority, 130 Livingston Street, 12<sup>th</sup> floor, Brooklyn, NY 11201.

*Purposes of the Use or Disclosure:* litigation

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By: \_\_\_\_\_  
[Name of Individual or Personal Representative]

Date: \_\_\_\_\_

*Basis of Personal Representative's Authority (if Applicable):* [If authorization signed by personal representative, state nature of representation, e.g., parent, lawful guardian, etc.]



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PHILBERT GORRICK,

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY,

Defendant.  
-----X

Index No.: CV-07-2529 (GBD)

AFFIDAVIT OF SERVICE  
BY MAIL

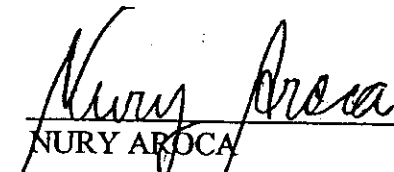
STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF KINGS)

NURY AROCA being duly sworn deposes and says:

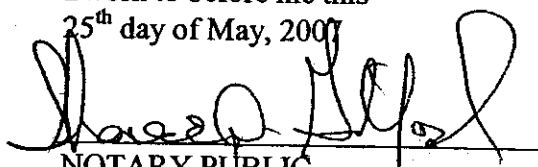
I am an employee of the New York City Transit Authority, in the office of Martin B. Schnabel, Attorney for defendant. I am over the age of 18 years and am not a party to this action. On the 25<sup>th</sup> day of May 2007, I served the annexed **Defendant's First Interrogatories and Request for Production of Documents**, upon:

Stuart Lichten, Esq.  
Schwartz, Lichten & Bright, P.C.  
113 University Place – 11<sup>th</sup> Floor  
New York, N.Y. 10003

by delivering a true copy of the same securely enclosed in a post-paid wrapper in a Post Office Box regularly maintained by the United States Government at 130 Livingston Street, Brooklyn, New York 11201, properly addressed to said attorney(s) at said address within the state. This address had been previously designated by said attorney(s) for that purpose, upon the preceding papers in this action.

  
\_\_\_\_\_  
NURY AROCA

Sworn to before me this  
25<sup>th</sup> day of May, 2007

  
\_\_\_\_\_  
NOTARY PUBLIC

SHAREE D. GILFORD  
Notary Public, State of New York  
No. 0164945081  
Qualified in Bronx County  
#972849 Commission Expires December 12, 2010

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

PHILBERT GORRICK,

Plaintiff,

Index No. CV-07-2529 (GBD)

- against -

NEW YORK CITY TRANSIT AUTHORITY,

Defendant.

----- X

**PLAINTIFF'S RESPONSE TO DEFENDANT'S  
FIRST SET OF INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF DOCUMENTS**

Plaintiff responds to Defendant's First Set of Interrogatories and Request for Production of Documents as follows:

**INTERROGATORIES**

**Interrogatory No. 1**

Describe each and every incident that you claim support your claim(s) of discrimination and identify each and every person who, in your opinion, was responsible in any way for any discriminatory or allegedly wrongful acts.

**Response:**

Plaintiff objects to Interrogatory No. 1 on the grounds that it is vague and overbroad, and exceeds the scope of Local Civil Rule 33.3. Without waiver of the foregoing objections, plaintiff responds: Gustave Rivera, Cassandra Tillman, Vincent Valenti, Norman Blumstein, Ralph Dill,

Patrick McGreal, Kevin Fonseca, John Campbell, J. Lee, O. Turner, Joseph Rozas, Richard Gayle, Michelle Alexander, M.D., Edward Isenberg, M.D, and Joan Cox.

**Interrogatory No. 2**

Identify each and every individual who witnessed or participated in any part of the events alleged in the complaint, including any allegedly wrongful acts. If you do not know the individual's name, give a detailed physical description of the individual, including approximate age, height, weight, gender, race, complexion, hair color, and clothing worn and the individual's title.

**Response:**

Plaintiff objects to Interrogatory No. 2 on the grounds that it is vague, confusing, and overbroad.

**Interrogatory No. 3**

Identify each and every union representative, official or attorney with whom you have discussed or who otherwise has knowledge of the grievances you have filed against the Transit Authority or its agents.

**Response:**

Plaintiff objects to Interrogatory No. 3 on the grounds that it is speculative, confusing, and overbroad, and requests privileged communications. Without waiver of the foregoing objections, plaintiff responds: Anthony Utano, Donovan Smith, Kenneth Page, Eileen Sullivan, Andrea Lazarow, Rick Figueroa, Julio Rivera, and Milton Ramos.

**Interrogatory No. 4**

Identify each and every union representative, official and/or attorney who appeared with or for you at each Step 1, 2, or 3 or arbitration hearings.

**Response:**

See, Response to Interrogatory No. 3.

**Interrogatory No. 5**

Identify all documents provided to or received from the union that represented you.

**Response:**

Plaintiff objects to Interrogatory No. 5 on the ground that it requests privileged communications and is overbroad. Without waiver of the foregoing objections, see, Document Nos. 322, 361-62, 394-97, 399-431, 441-72, 482-93, and 504-23.

**Interrogatory No. 6**

Identify any and all documents prepared by or for you or by anyone else on your behalf or otherwise which relate to the allegations in the complaint, including but not limited to letters, complaints, grievances, notes, reports, forms, journals, transcripts, calendars, diaries, log-books, witness statements, photographs, audio or video recordings, or electronic mail.

**Response:**

Plaintiff objects to Interrogatory No. 6 on the grounds that it is vague, overbroad, and confusing.

**Interrogatory No. 7**

Identify each and every health care provider, including but not limited to hospitals, clinics, physicians, therapists, social workers, psychiatrists and psychologists from whom you have requested or received examination or treatment since 1993, and state the date(s) and nature of such examination or treatment or request for treatment.

**Response:**

Plaintiff objects to Interrogatory No. 7 on the ground that it exceeds the scope of Local Civil Rule 33.3. Without waiver of the foregoing objection, plaintiff responds: Gary Gwertzman, M.D., Harold Libatter, M.D., Alfred Ernst, M.D., V. Sivaprakasapillai, M.D., Michael Katz, M.D., Michelle Alexander, M.D., Naheed Sultana, M.D., Renee Spiegel, M.D., Edward Isenberg, M.D., Mitchell Bruce, M.D., Jennifer Svahn, M.D., Arezu Izad, D.P.M., A. Genser, M.D., Harriet Dickenson, M.D., and Olayiwola Ola, M.D.

**Interrogatory No. 8**

If you or your attorney or anyone else on your behalf, including any person employed by, or connected with, your attorney, consulted any person holding him/herself out to be an expert or consultant in any field, including any medical, psychological, or related field, concerning any issues in this case, including the issue of damages, identify each person giving his/her name, address, telephone number, and field of expertise, the name, address, and telephone number of his/her employer, the date of the first contact or consultation with him/her, whether any written or oral report was made by him/her. If any written report was made, please produce a copy of each report, the date of each report, state whether each report was written or oral, if any writing was made, including a written report, please provide a copy of that writing and/or report, and whether you expect to call him/her at trial.

**Response:**

Plaintiff objects to Interrogatory No. 8 on the ground that it is beyond the scope of Local Civil Rule 33.3. Without waiver of the foregoing objection, plaintiff responds that he has not yet retained any experts.

**Interrogatory No. 9**

Detail each and every category of damages and expenses sustained by you or anyone else on your behalf as a result of the alleged incident, including but not

limited to medical expenses, lost earnings, and out-of-pocket expenses, and any compensation received in reimbursements of these damages or expenses. Identify all documents which in any way tend to substantiate these damages, expenses, and reimbursements, including but not limited to bills, proof of payment thereof, receipts for out-of-pocket expenses, insurance claim forms, pay stubs, and state and federal income tax returns for the past five years.

**Response:**

Plaintiff objects to Interrogatory No. 9 on the grounds that it is overbroad, beyond the scope of Local Civil Rule 33.3, and not likely to lead to the discovery of admissible evidence. Without waiver of the foregoing objections, plaintiff responds: approximately \$52,000 in back pay as of July 2007, an undetermined amount in emotional distress damages, attorney's fees, costs, and disbursements.

**Interrogatory No. 10**

Identify each and every person who may have knowledge or information relevant to each and every damage amount sought in this action and for each person identified in paragraph "9" provide the address and telephone number of the person and the employer of the person.

**Response:**

Plaintiff objects to Interrogatory No. 10 on the grounds that it is overbroad, vague, and confusing.

**Interrogatory No. 11**

Identify each person you intend to call as a witness at trial.

**Response:**

Plaintiff objects to Interrogatory No. 11 on the ground that it exceeds the scope of Local Civil Rule 33.3.



**Interrogatory No. 12**

State whether you have ever been a party (plaintiff or defendant) to any civil action or proceeding (other than this action). If so, as to each action or proceeding, identify: the nature of the action or proceeding, its name or caption, index number and the court in which it was brought; its status or disposition. State whether you have ever testified or been a witness in any other action or proceeding.

**Response:**

Plaintiff objects to Interrogatory No. 12 on the ground that it exceeds the scope of Local Civil Rule 33.3.

**Interrogatory No. 13**

Identify a.) your physical or mental impairment(s) and b.) the major life activity(ies) substantially limited by the alleged impairment(s), as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102(2)(A).

**Response:**

Plaintiff objects to Interrogatory No. 13 on the ground that it exceeds the scope of Local Civil Rule 33.3.

**Interrogatory No. 14**

Identify any and all accommodations you requested to enable you to perform the essential functions of your job as a Power Cable Maintainer, the individuals) to whom each such accommodation request was addressed and the date, time and location of the request(s).

**Response:**

Plaintiff objects to Interrogatory No. 14 on the ground that it exceeds the scope of Local Civil Rule 33.3.

**Interrogatory No. 15**

Identify each and every job, full time or part time, including self employment, that you have held from the suspension of your employment by the New York City Transit Authority in October 2000 to the present and, for each, supply:

- a. The name and address of the employer;
- b. The dates of such employment;
- c. Whether such employment was full or part time;
- d. The position you held; and
- e. The wages or remuneration received (either weekly or annually).

**Response:**

Plaintiff objects to Interrogatory No. 15 on the ground that it exceeds the scope of Local Civil Rule 33.3.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

**Document Request No. 1**

Produce copies of all documents, if any, used in any way when preparing the complaint.

**Response:**

See, Document Nos. 1-523.

**Document Request No. 2**

Produce copies of documents identified in response to the interrogatories above or used in responding to interrogatories above.

**Response:**

See, Responses to Interrogatories.

**Document Request No. 3**

Produce copies of all grievances and any grievance related documents filed or received by you or on your behalf.

**Response:**

See, Document Nos. 322, 361-62, 394-97, 399-431, 441-72, 482-93, and 504-23.

**Document Request No. 4**

Produce copies of inter-office memoranda, notes, letters or other communications that concern you, or your complaints of discrimination.

**Response:**

See, Document Nos. 322, 361-62, 394-97, 399-431, 441-72, 482-93, and 504-23.

**Document Request No. 5**

Produce copies of documents, reports, memoranda, etc. concerning any promotion for which you applied, including, but not limited to, the job posting notice, your application and transmittal letter and any related correspondence.

**Response:**

Plaintiff does not possess documents responsive to Request No. 5.

**Document Request No. 6**

Produce copies of documents, reports, memoranda, etc. concerning any charges you filed with the New York State Division of Human Rights, the United States Equal Employment Opportunity Commission or any other entity or person.

**Response:**

See, Document Nos. 524-34.

**Document Request No. 7**

Produce copies of documents, reports, memoranda, etc. concerning any claims for unemployment insurance benefits, social security disability benefits, Medicaid, state disability benefits and/or Workers' Compensation benefits filed by you or on your behalf.

**Response:**

Plaintiff possesses no documents responsive to Request No. 7.

**Document Request No. 8**

Produce copies of documents, reports, memoranda, etc. concerning your damages.

**Response:**

Plaintiff objects to Request No. 8 on the grounds that it is vague and confusing.

**Document Request No. 9**

Complete and provide written releases that will permit defendant to contact your employers since your suspension in October 2000 and to receive copies of your employment records. Complete a separate release for each employer.

**Response:**

See, documents previously provided.

**Document Request No. 10**

Produce copies of medical records dating from 1993 to the present or, if copies are unavailable, complete and provide written releases which would permit defendant to obtain copies of all records relating to the medical and/or psychiatric/psychological examination or treatment identified in responses to the interrogatories above. Complete a separate release for each medical facility or treating physician, psychiatrist, psychologist, social worker or therapist from whom you have sought treatment or been treated by. Releases for records from Dr. Jennifer Svahn, Elmhurst Hospital, Beth Israel Hospital, Queens Medical Care, Hillside Focus Care, Mary Immaculate Hospital, Lenox Hill Hospital and Boro Medical, P.C. are attached for your authorization.

**Response:**

See, Document Nos. 1-321, 323-60, 363-93, 398.

**Document Request No. 11**

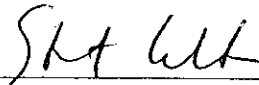
Provide a copy of your federal and state tax returns and supporting documents for each of the following tax years: 1999 to the present.

**Response:**

Plaintiff objects to Request No. 11 on the ground that it is not likely to lead to the discovery of admissible evidence.

Dated: August 15, 2007  
New York, New York

SCHWARTZ, LICHTEN & BRIGHT, P.C.  
Attorneys for Plaintiff

By:   
Stuart Lichten  
275 Seventh Avenue, 17th Floor  
New York, New York 10001  
(212) 228-6320

TO: MARTIN B. SCHNABEL  
Vice President and General Counsel  
New York City Transit Authority  
Attorney for Defendant  
130 Livingston Street, Room 1243  
Brooklyn, New York 11201  
Of Counsel: Ann Burton Goetcheus, Esq.





## New York City Transit

718 694-3889

September 5, 2007

### BY FAX and Mail

Stuart Lichten, Esq.  
Schwartz, Lichten & Bright, P.C.  
Attorneys at Law  
275 Seventh Avenue, Suite 1700  
New York, N.Y. 10001

Re: Philbert Gorrick v. NYCTA 2007 cv 2529 (GBD)

Dear Mr. Lichten:

In an effort to resolve the dispute regarding Plaintiff's tax returns without recourse to the Court, Defendant proposes, as an alternative to production of his 2000-2005 tax returns as a source for information concerning his employment and earnings in the period from 2000 to 2005, that Plaintiff, in addition to producing his 2006 tax returns, execute a release for the records of his application to JP Morgan Chase (or predecessor) for financing for his automobile, apparently purchased in 2005. I attach a release for the JP Morgan Chase records for your convenience.

I am also writing to amend Defendants' Document Production. After sending the documents last week I discovered that there had been an error in numbering with the result that two sets of documents had been numbered D00340-399. I hereby attach a replacement set of documents formerly labeled D00340-399, relabeled D0400A to D0460A (one two-sided document was numbered on only one side originally) to place them where they should have been in the production. The former numbers are preserved but crossed-out to attempt to minimize confusion in the future. My apologies for the error which was, of course, unintentional.

The documents were generally produced in the manner in which they were maintained in the ordinary course of business:

Bates numbers	Record category
D001-309	Occupational Health Services file
D0310-386, 437A-460A (previously numbered D0376-399), 400-490	Labor Relations file
D0387-94	Pay History
D0395-399-400A-436A (the latter previously numbered D0340-375)	EEOC Correspondence
D0491-507	Reclassification file
D0508-	Plaintiff Job Details listing from Employee Information System
D0512-1143	Departmental personnel file
D01144-47	TWU CBA Reclassification section
D01148-52	Job Descriptions for titles held by Plaintiff
D01153-56	Reclassification
D01157-59	WCIS history
D01160-78	MOW Organization charts
D01179-1203	Policy Instructions on Restricted Work and Reasonable Accommodation
D01204-27	Board of Inquiry Report
D1228-64	Blank
D01265-1448	Fonseca and Rivera files

Sincerely yours,



Ann Burton Goetcheus  
Executive Agency Counsel

Attachment-mail only

**AUTHORIZATION FOR RELEASE OF RECORDS**

**TO: J.P. Morgan Chase Bank NA  
PO Box 901033  
Fort Worth, Texas 76101-2033**

**YOU ARE HEREBY AUTHORIZED** to permit the New York City Transit Authority, through its authorized representative, Ann Burton Goetcheus, Esq., NYCT Department of Law, 130 Livingston St. – 1233p, Brooklyn, NY 11201, (718) 694-3889; fax: (718) 694-4020, to gain access to and make or receive copies of any and all of my records, including but not limited to the application and payment record of financing for a vehicle with VIN: WBAHN83596DT25853, including all records from informal, sealed or any other files, however maintained or designated.

\_\_\_\_\_  
Philbert Gorrick,  
DOB 11/28/54, SS # 072-76-8370  
Jamaica, New York

STATE OF NEW YORK    )  
                                  )ss:  
COUNTY OF            )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me personally came and appeared before me Philbert Gorrick to me known and known to me to be the individual described in and who executed the foregoing release and who duly acknowledged to me that he executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

#1002351  
2007-9909

## TRANSMISSION VERIFICATION REPORT

TIME : 09/05/2007 09:58  
 NAME : GEN LAW  
 FAX : 718-694-4020  
 TEL :  
 SER.# : 000L5J590222

DATE, TIME	09/05 09:57
FAX NO./NAME	912123581353
DURATION	00:00:53
PAGE(S)	04
RESULT	OK
MODE	STANDARD
	ECM



New York City Transit

Office of the General Counsel  
 General Law & Contracts  
 130 Livingston Street  
 Brooklyn, New York 11201

Facsimile #: (718) 694-5727  
 (718) 694-4020

This is the cover page of a legal department facsimile. If you have any difficulty, or if the transmission of this facsimile was incomplete, please call (718) 694-3889.

To: Stuart Lichten, Esq

From: Ann B. Goetcheus

Fax: (212) 358-1353

Pages: 4 (incl. cover letter)

Phone:

Date: September 5, 2007

Re: Gorrick v. NYCTA

CC:

Urgent

For Review

Please Comment

Please Reply

Please Recycle

Comments:



## New York City Transit

718 694-3889

August 30, 2007

### BY FAX and Mail

Stuart Lichten, Esq.  
Schwartz, Lichten & Bright, P.C.  
Attorneys at Law  
275 Seventh Avenue, Suite 1700  
New York, N.Y. 10001

Re: Philbert Gorrick v. NYCTA 2007 cv 2529 (GBD)

Dear Mr. Lichten:

I am responding to your letter dated August 27, 2007 with respect to deposition scheduling and discovery. Without prejudice to outstanding discovery issues, I propose that Defendant depose Plaintiff on September 25, 2007 at 10:00 a.m. here at 130 Livingston Street and we will make Gustavo Rivera available for deposition on Friday, September 28, 2007. These dates are, however, conditioned upon Mr. Gorrick providing at least his 2006 tax returns by September 12, 2007, as you have represented.

Defendant does not, however, concede that this offered partial disclosure of financial information fulfills Plaintiff's disclosure requirements, and will seek a ruling from Magistrate Judge Peck concerning the matter unless Plaintiff promptly agrees to provide either tax returns from 2000 through 2006 or, if Plaintiff (or his tax-preparer) does not have the tax returns in his possession, agrees to provide releases to permit Defendant to obtain the information from IRS and the New York State Tax authorities.

Plaintiff's earnings – whether as employee or as an independent contractor – are material to issues in this action – specifically, as to whether he is or has been disabled in the life activity of working within the meaning of the ADA, either currently or at any point in his employment by New York City Transit, the extent of any damages, whether he made efforts to mitigate his damages, and to his credibility, in view of representations he has made concerning employment or lack thereof, including his affidavit provided to New York City Transit prior to payment of the back-pay awarded by the second arbitration.

Plaintiff's effort to circumscribe his own disclosure to an artificially isolated recent period is merely an attempt to deny Defendant information it needs to disprove his claims by obscuring his non-Transit employment and other activities.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ann Burton Goetcheus", with a long horizontal flourish extending to the right.

Ann Burton Goetcheus  
Executive Agency Counsel

## TRANSMISSION VERIFICATION REPORT

TIME : 08/30/2007 12:41  
 NAME : GEN LAW  
 FAX : 718-694-4020  
 TEL :  
 SER. # : 000L5J590222

DATE, TIME	08/30 12:40
FAX NO./NAME	912123581353
DURATION	00:00:40
PAGE(S)	03
RESULT	OK
MODE	STANDARD
	ECM



New York City Transit

Office of the General Counsel  
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 130 Livingston Street  
 Brooklyn, New York 11201

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<b>To:</b>	Stuart Lichten, Esq	<b>From:</b>	Ann B. Goetcheus
<b>Fax:</b>	(212) 358-1353	<b>Pages:</b>	3 (incl. cover letter)
<b>Phone:</b>		<b>Date:</b>	August 30, 2007
<b>Re:</b>	Gorrick v. NYCTA	<b>CC:</b>	

Urgent      For Review      Please Comment      Please Reply      Please Recycle

Comments:



\*\*\* REGISTRATION RECORD EXPANSION \*\*\*      TODAY'S DATE IS 09/07/07

PLATE: CZU6134    TYPE: PASSENGER		REGISTRANT INFORMATION:	
IN#: WBAHN83596DT25853		GORRICK, PHILBERT, T	DOB: 11/28/54
5 BMW    BLACK    4DSD WEIGHT:004552			SEX: M
JEL: GAS    CYL: 08		166-05 HIGHLAND AV6M	COUNTY: QUEE
EXPIRES: 11/30/08    VALID: 12/07/06		JAMAICA NY	ZIP: 11432
MS:		MI#: G15682 11839 837494-54	

===== PREVIOUS VEHICLES/PLATES/INSURANCE INFO ASSOCIATED WITH THIS RECORD =====

2 BMW    GREEN    4DSD WEIGHT:004464	FUEL: GAS	CYL 08	VIN# WBAGN634X2DR01161
EXPIRES: 11/30/06	VALID: 12/01/04		

\* ENTER NEXT FUNCTION CODE MENU \*\*\*

\*\*\* REGISTRATION RECORD EXPANSION \*\*\*

TODAY'S DATE IS 09/07/07

LATE: DM176E TYPE: PASSENGER

REGISTRANT INFORMATION:

IN#: 1GYEK13R6YR134190

GORRICK, PHILBERT, T

DOB: 11/28/54

0 CADIL BLACK 2DSD WEIGHT: 005299

SEX: M

UEL: GAS CYL: 08

164-20 HIGHLAND A 1R

COUNTY: QUEE

XPIRES: 10/15/02 VALID: 10/16/00

JAMAICA

NY

ZIP: 11432

NS:

MI#: G15682 11839 837494-54

----- PREVIOUS VEHICLES/PLATES/INSURANCE INFO ASSOCIATED WITH THIS RECORD -----

DLUNTARY PLATE SURRENDER ON: 08/12/02

----- REGISTRATION ACTIVITIES -----

EG SUSPENDED ON: 06/16/02 FOR 121 DAYS - REASON: INSURANCE LAPSE

OMPLIANCE DATE: 08/12/02 CLEARED ON: 12/12/02

\*\* ENTER NEXT FUNCTION CODE MENU \*\*\*

\*\*\* REGISTRATION RECORD EXPANSION \*\*\*      TODAY'S DATE IS 09/07/07

DATE: L288PL      TYPE: PASSENGER		REGISTRANT INFORMATION:	
IN#: 1GKFK16RXVJ755114		GORRICK, PHILBERT, T	DOB: 11/28/54
7 GMC    GY/BL    SUBN WEIGHT:005669			SEX: M
JEL: GAS      CYL: 08		166-40 89 AVE 2G	COUNTY: QUEE
PIRES: 04/14/02    VALID: 02/05/01		JAMAICA NY	ZIP: 11432
JS:		MI#: G15682 11839 837494-54	

----- PREVIOUS VEHICLES/PLATES/INSURANCE INFO ASSOCIATED WITH THIS RECORD -----

DLUNTARY PLATE SURRENDER ON: 02/19/02  
*4 door sedan*

3 CHEVR GREEN    4DSD WEIGHT:005284    FUEL: GAS      CYL 08    VIN# 1GNEK13R7WJ325951

PIRES: 04/14/02    VALID: 04/20/00    INS: 682 - HOMELAND INS CO OF NY

===== REGISTRATION ACTIVITIES =====

IG SUSPENDED ON: 08/16/99 FOR 000 DAYS - REASON: INS. NOT IN EFFECT

OMPLIANCE DATE: 09/03/99      RESCINDED ON: 08/16/99

\* ENTER NEXT FUNCTION CODE MENU \*\*\*

STATE OF NEW YORK

SS:

COUNTY OF KINGS

I Philbert Gorrick Pass No. 330899

being duly sworn deposes and says:

I was suspended from my position of Power Cable Maintainer  
on October 9, 2000. The suspension  
arose out of disciplinary charges then pending against me. I <sup>have not</sup> ~~was not~~  
been restored to duty on \_\_\_\_\_.

During a portion of the aforesaid suspension, from:

2000 to 2004

I was not employed elsewhere in any capacity and did not derive  
any earnings from any other employment, by self or otherwise, nor  
did I perform any work or services for which I was entitled to be  
paid now or at any future date, nor did I receive any  
unemployment insurance benefits, or public assistance.

I make this affidavit in connection with the Award dated July 19, 2006, which  
directed that I be ~~reimbursed~~ <sup>reimbursed</sup> for the period of my suspension

from May 22, 2002 to June 9, 2004

in order to induce the Transit Authority to make such payment,  
knowing that the Authority will rely thereon.

Sworn to before me this

24th day of October of 2006

  
Employee's Signature

  
Notary Signature

STUART LICHTEN  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 02LH941219  
QUALIFIED IN NEW YORK COUNTY  
CERTIFICATE FILED IN NEW YORK COUNTY  
COMMISSION EXPIRES JULY 25, 20 10

1 of 2 DOCUMENTS

**THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY**

**CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE ISSUING  
GOVERNMENT AGENCY**

**QUEENS COUNTY, NEW YORK, ASSUMED BUSINESS NAMES**

**DBA Name:** CONTEMPORARY TECHNOLOGIES COMPANY

**Business Address:**

16640 89 AV  
JAMAICA, NY 11432

**Filing Date:** 8/20/1999

**Owner(s):**

PHILBERT GORRICK  
16640 89 AV  
JAMAICA, NY 11432

**Filing Number:** 58071

2 of 2 DOCUMENTS

**THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY**

**CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE ISSUING  
GOVERNMENT AGENCY**

**NEW YORK FICTITIOUS BUSINESS NAMES**

**DBA Name:** CONTEMPORARY TECHNOLOGIES CO

**Business Address:**

16640 89TH AVE  
JAMAICA, NY 11432-4265

**Telephone:** (718) 523-5301

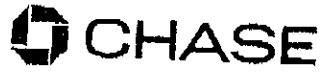
**Filing Date:** 8/20/1999

**County:** QUEENS

**Business Description:** NONCLASSIFIED ESTABLISHMENTS

**Contact Name:** PHILBERT GORRICK

**Industry Classification Code:** 999977



Chase Auto Finance

**Fax**

**To:** Ann B. Goecheus **From:** Hortencia Cervantes  
**Fax:** 718-694-4020 **Pages:** 3  
**Phone:** **Date:** 07/06/07  
**Re:** **CC:**

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments** Here is the copy of information that dealership send to.

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Page: 1 Document Name: untitled

QQDE 9AF5 Quick Data Entry U246931 09/27/07 10:33  
 051811555051 Nfn INQ Dsp QDE Next 051811555051 Loc 00000000000  
 Loc 10 10 10 00543 Dealer: # 04729 Name BMW OF MANHATTAN INC. Pri 5  
 Pri PHILBERT BORRICK DB 11 28 54 SS 072 76 8370 MS  
 Sec DB 00 00 00 SS #DP  
 Adr: 16605 St HIGHLAND Tp DR Apt 6M RR PO  
 City JAMAICA St NY Zip 11432 T/R 2 6 O/R R Ph 718 523 4045  
 Curr Empl PHILBERT CORP Phone 718 523 4045 Yr/Mo 10  
 Occup OTHR IT CONSULTANT/OWNER City/St  
 Prev Empl Phone Yr/Mo  
 Occup City/St  
 Sapp Empl Phone Yr/Mo  
 Occup City/St  
 I:App 85900.00 Y SApp Y Oth M Sc Oth  
 Asset:Ty Des Acct# AMERICREDIT Y/N N  
 Lia:Ty RENT Dsc Pym 750 Ty ADJT Dsc Pym -537  
 Prod: BLN10 Req Amt 31635.00 Appl Type I Term 48 Rel App  
 Collat: N/U N Yr 6 Mke BMW Model 750 Mileage 25 MSRP 79885  
 Inv/Whs 79885 Trade: N/U U Yr 2 Mke BMW Mdl 7 SERIES GID  
 AC/C Pr 84500.00 C Dw 15000.00 Tr 43000.00 Ow Ins GID/OVRD N  
 Misc: Rcvd Date 06/30/05 Rcvd Time 15:55 Orig 00000 Prefill  
 09/27 10:33 U246931  
 08/06 01:19 DS I01  
 PFKEYS: 1-HELP 2-MEN 3-WKS 4-FBR 5-CUS 6-HIS 7-HTX 8-SUM 9-EMP 10-Next 11-VER

Page: 1 Document Name: untitled

QHIS 9AF5 History Inquiry U246931 09/27/07 10:33  
 051811555051 Nfn INQ Dsp HIS Next 051811555051 Loc 00000000000  
 BORRICK, PHILBERT \*080\*BMW OF MANHATTAN NEWYORKR 08/06/05  
 16605 HIGHLAND DR # 6M 212-586-2269 RET10 \$ 30108 CBR01 BK  
 JAMAICA, NY 11432

Date	Time	User	AC	Ltr	Rte	Comments
06/30	15:55		CS		V10	Y38 Y13 940 955
06/30	15:55		CS		V10	/+157
06/30	15:55		RI		V10	BUY RATE IS:13.690
06/30	15:55		CS		V10	Y38 Y13 940 955
06/30	15:55		CS		V10	/+157
06/30	15:55		CB		V10	TU 06/30 15:55 RPTS - :01
06/30	15:55		CR		V10	PRI: RQST#0050630015550508930
06/30	15:55	CAFWEB	SP		V10	ACTION BASED ON: PRE-CREDIT BUREAU ROUTE
06/30	15:55	CAFWEB	DC		E10	WEB
06/30	15:55	CAFWEB	DE		E10	
CLIENT IS TRADING IN 2002 7 FOR 2006 750LI HE IS ALSO PUTTING 10K C						
ASH DOWN						
06/30	15:55	CAFWEB	EN		E10	
WEB						

PFKEYS: 1-HELP 2-MEN 3-WKS 4-FBR 5-CUS 6-HIS 7-HTX 8-SUM 9-EMP 10-Next 11-VER

[Web](#) [Images](#) [Video](#) [News](#) [Maps](#) [Gmail](#) [more ▾](#)[Sign in](#)**Residential Phonebook**Results 1 - 1 of 1 for **718 523-4045**. (0.11 seconds)

Joseph Wilson	(718) 523- 4045	16605 Highland Ave, Jamaica, NY 11432	<a href="#">Map</a>
------------------	--------------------	--	---------------------

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275 Seventh Avenue Suite 1700  
New York, New York 10001  
Phone 212 238 6320 Facsimile 212 358 1353

Arthur Z. Schwartz\*  
Stuart Lichten  
Daniel R. Bright  
\*Also admitted in Pennsylvania

November 6, 2007

**BY FAX AND U.S. MAIL**

Ann Burton Goetcheus, Esq.  
Executive Agency Counsel  
N.Y.C. Transit Authority  
130 Livingston Street - Room 1233  
New York, New York 11201

Dear Ms. Goetcheus:

As you are aware, this firm represents Philbert Gorrick in a pending action. I am writing because it appears that you have violated Mr. Gorrick's rights pursuant to the Driver's Privacy Protection Act.

Federal law provides, "A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court." 18 U.S.C. § 2724(a). In your November 2, 2007, letter to the Court, you attach at Exhibit G what you describe as "DMV records," containing Mr. Gorrick's name, driver identification number, address, and other information defined as "personal" under the law. These records appear to have been obtained on September 7, 2007, months after Mr. Gorrick's discharge from the Transit Authority.

Please advise how you came into possession of these records, and provide a legal justification for your use and disclosure of this information. If I do not receive a satisfactory response within a reasonable time, Mr. Gorrick will take whatever actions are necessary to protect his interests.

Very truly yours,

Stuart Lichten

**SCHWARTZ, LICHTEN & BRIGHT, PC**  
**Attorneys at Law**

275 Seventh Avenue, 17th Floor  
New York, New York 10001  
tel: 212 228 6320  
fax: 212 358 1353

**Arthur Z. Schwartz\***  
**Stuart Lichten**  
**Daniel R. Bright**  
\*Also admitted in Pennsylvania

**Facsimile transmission**

DATE: 11/6/07  
TO: Ann Burke Gopfer, Esq.  
FAX No: (718) 694-5727  
FROM: Arthur Z. Schwartz, Esq.  
☒ Stuart Lichten, Esq.  
Daniel R. Bright, Esq.

Number of pages (including cover): 2

Hard copy ☒ will ☐ will not follow.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## New York City Transit

718 694-3889

November 7, 2007

VIA FACSIMILE & MAIL

Stuart Lichten, Esq.  
Schwartz, Lichten & Bright, P.C.  
Attorneys at Law  
275 Seventh Avenue, Suite 1700  
New York, N.Y. 10001

Re: Philbert Gorrick v. NYCTA 2007 cv 2529 (GBD)

Dear Mr. Lichten:

I am writing in reply to your letter dated November 6, 2007 concerning the inclusion of DMV records in Defendant's response to your letter discovery motion. Specific provisions of the Driver's Privacy Protection Act of 1994 permit the use that Defendant has made of Mr. Gorrick's vehicle registration information, namely 18 U.S.C. § 2721(b)(1) and (4). The use of the DMV records by the Transit Authority is permitted under this statute both because NYCTA is indisputably a government agency and also because the information has been used in connection with civil proceedings in Federal and state courts.

In *Manso v. Santamarina & Assoc.*, 2005 U.S. Dist. LEXIS 7316, \*9-19 (S.D.N.Y. Apr. 26, 2005), Judge Sands upheld the use of information from a motor vehicle record by a private party for purposes similar to those in the filing with the court – to raise questions as to the truth of a sworn statement by the Plaintiff.

Sincerely yours,

A handwritten signature in black ink, reading "Ann Burton Goetcheus".

Ann Burton Goetcheus  
Executive Agency Counsel

## TRANSMISSION VERIFICATION REPORT

TIME : 11/07/2007 17:15  
 NAME :  
 FAX : 17186945727  
 TEL :  
 SER.# : 000A5J417451

DATE, TIME	11/07 17:15
FAX NO./NAME	912123581353
DURATION	00:00:33
PAGE(S)	02
RESULT	OK
MODE	STANDARD
	ECM

**New York City Transit**

Office of the General Counsel  
 General Law & Contracts  
 130 Livingston Street  
 Brooklyn, New York 11201

Facsimile #: (718) 694-5727  
 (718) 694-4020

This is the cover page of a legal department facsimile. If you have any difficulty, or if the transmission of this facsimile was incomplete, please call (718) 694-3889.

**To:** Stuart Lichten, Esq.**From:** Ann B. Goetcheus**Fax:** (212) 358-1353**Pages:** (incl. fax cover sheet)**Phone:****Date:** November 7, 2007**Re:** Gorrick v. NYCTA**CC:****Urgent****For Review****Please Comment****Please Reply****Please Recycle****Comments:**



1

8lv6gorc

1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 PHILBERT GORRICK,

4 Plaintiff,

5 v.

07 CR 2529(AJP)

6 NEW YORK CITY TRANSIT  
6 AUTHORITY,

7 Defendant.

8 -----x

9 New York, N.Y.  
9 January 31, 2008  
10 11:10 a.m.

11 Before:

12 HON. ANDREW J. PECK,

13 Magistrate Judge

14 APPEARANCES

15 SCHWARTZ, LICHTEN & BRIGHT, P.C.  
15 Attorneys for Plaintiff

16 BY: STUART L. LICHTEN, ESQ. (via telephone)

17 NEW YORK CITY TRANSIT AUTHORITY  
17 TRANSIT LAW DEPARTMENT

18 Attorney for Defendant

18 BY: ANN BURTON GOETCHEUS (via telephone)  
19 GENA USENHEIMER (via telephone)

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1 (Case called; in chambers)

2 THE COURT: This is Judge Peck.

3 Counsel, please state your names for the court  
4 reporter's record, and each time you speak start with your  
5 name.

6 MR. LICHTEN: For the plaintiff Stuart Lichten,  
7 Schwartz Lichten & Bright.

8 MS. GOETCHEUS: For the defendant New York City  
9 Transit Authority, Ann Goetcheus and Gena Usenheimer of the  
10 Transit Law Department.

11 THE COURT: Mr. Lichten, have you had a chance to read  
12 Ms. Goetcheus' letter of last night?

13 MR. LICHTEN: Yes.

14 THE COURT: What is your position on the tax returns?

15 MR. LICHTEN: Our position is first of all there was  
16 an agreement between the parties on September 5th and September  
17 10th in writing that Mr. Gorrick would turn over or at least  
18 authorize the Transit Authority to obtain records of a loan  
19 application at a bank which had a lot of personal and financial  
20 information in it and in return the Transit Authority would  
21 drop their request for his their 2000 to 2005 tax return.

22 This agreement was raised before your Honor on  
23 November 14th and your Honor denied the Transit Authority's  
24 request for the returns based on that agreement. I don't see  
25 why the agreement should not still stand. There really are not

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1 any changed circumstances.

2 If Judge Daniels grants the motion to amend, we will  
3 turn over the tax returns; but as of right now, there are no  
4 counterclaims that the returns are relevant to because those  
5 counterclaims haven't been -- the Transit Authority hasn't been  
6 granted leave to accept those.

7 THE COURT: Except that I gave them discovery on the  
8 counterclaims.

9 MR. LICHTEN: Well, I thought your Honor gave them an  
10 extra week to do discovery. I didn't know there -- some of the  
11 discovery did have to do with the counterclaims and we didn't  
12 object to it. I don't know there was a specific order that the  
13 tax returns had to be turned over.

14 THE COURT: That there wasn't. But if you are telling  
15 me that you agree they are relevant to the counterclaims, but  
16 that the counterclaims aren't in the case yet, I specifically  
17 allowed the parties to have discovery on the counterclaims so  
18 that if Judge Daniels grants them, we don't have to reopen  
19 discovery.

20 MR. LICHTEN: I am sorry, that is not how I understood  
21 it. The order says, One week extension of discovery approved.  
22 There would have to be a lot more discovery. Plaintiff is  
23 entitled to discovery, too.

24 THE COURT: Well, your time for that has gone. We  
25 will worry about whether I grant you any further relief if and

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1 when Judge Daniels allows the counterclaim in. I am pulling  
2 out my file now. I don't think the order could be any clearer.

3 MR. LICHTEN: It is 12-18-07. It says, One week  
4 extention of discovery approved. The motion to amend will be  
5 decided by Judge Daniels once it is fully briefed, but the  
6 Court will allow the additional discovery at this time.

7 MS. GOETCHEUS: For Transit that the order was in  
8 response to Magistrate Judge Peck's request for our -- how much  
9 longer it would take to complete discovery with respect to the  
10 counterclaims. That was how I understood it and that is why I  
11 issued the second document request and obtained the deposition  
12 of the Concord family services director.

13 THE COURT: What I don't you understand,  
14 Ms. Goetcheus, is you were here a week ago, why wasn't this  
15 raised at January 24th telephone conference?

16 MS. GOETCHEUS: Because I did not have the response  
17 from the plaintiff.

18 THE COURT: I see.

19 MS. GOETCHEUS: I still haven't received the mailed  
20 response. On the 28th I called Mr. Lichten and asked him to  
21 fax it to me because I understood he submitted it but I hadn't  
22 received it.

23 THE COURT: Mr. Lichten, the only issue on relevance  
24 is this: Based on their counterclaim there is a certain amount  
25 of gross income, less taxes that Mr. Gorrick received from

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1 Concord, if you are not going to claim any offset to that with  
2 respect to the counterclaim -- in other words, the affidavit he  
3 put in this connection with the arbitration said he didn't earn  
4 any income -- I am loosely paraphrasing everything -- he didn't  
5 earn any income during the period he was suspended and that is  
6 why he was getting some essence backpay from the Transit  
7 Authority, obviously he received money from Concord, you have  
8 your arguments, they have theirs -- if the only issue is did he  
9 receive any compensation from Concord and not that that may  
10 have been partially reduced in terms of net income by certain  
11 expenses he had to incur, although as I understand it he was a  
12 computer consultant so I would think any expenses other than  
13 his time was negligible, we don't have to go into the tax  
14 returns.

15 MR. LICHTEN: No. If the counterclaims are going to  
16 go forward, we certainly have to go into the tax returns.

17 THE COURT: Produce the tax returns.

18 MR. LICHTEN: He only has the 2004.

19 THE COURT: I thought he also had 2000?

20 MR. LICHTEN: Well, I said in the transcript I think  
21 he had the 2000. I was wrong when I went back to the office  
22 and checked.

23 THE COURT: Who is his tax preparer?

24 MR. LICHTEN: His tax preparer. Can you hold on a  
25 second?

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1 THE COURT: Yep.  
2 MR. LICHTEN: John Torres Enterprises, Inc.  
3 THE COURT: Located were?  
4 MR. LICHTEN: 4713 Avenue n, as in Nancy, Brooklyn,  
5 New York 11134.  
6 THE COURT: Have you contacted or has Mr. Gorrick  
7 contacted the tax preparer?  
8 MR. LICHTEN: Yes, I think so.  
9 THE COURT: Does the tax preparer have copies?  
10 MR. LICHTEN: I don't think so.  
11 THE COURT: Isn't he required to under IRS regulations  
12 or not?  
13 MR. LICHTEN: Well, I don't know if he prepared in  
14 those years. That is his tax preparer now.  
15 THE COURT: Have you asked Mr. Gorrick who prepared  
16 his tax returns for 2000 through 2003?  
17 MR. LICHTEN: No.  
18 THE COURT: You are to produce the tax return you  
19 have. You are to determine from your client who prepared the  
20 missing tax returns. You are to have your client ask those tax  
21 prepares for such copies and do whatever you need to to get  
22 them. If all else fails, you are to fill out the appropriate  
23 IRS release form so that the tax returns can be provided to the  
24 Transit Authority. All of that is to get done by Monday.  
25 MR. LICHTEN: Your Honor, with regard first of all to  
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1 the agreement, is that rescinded? I mean, does Transit  
2 Authority still have the right to look at his loan application?

3 THE COURT: Counsel, you just told me that the tax  
4 returns are relevant to the counterclaim.

5 MR. LICHTEN: They are relevant, but there was an  
6 agreement. They would have been relevant to the main claim,  
7 too.

8 THE COURT: I am not revisiting the issue. I have  
9 ordered you to produce the tax returns, period.

10 Anything else from either side?

11 MS. GOETCHEUS: No, your Honor, not from us.

12 MR. LICHTEN: Is your Honor's -- if I make an appeal  
13 to Judge Daniels, is it stayed?

14 THE COURT: Not unless you get a stay from Judge  
15 Daniels. If I am wrong, it will be returned. No big deal.  
16 You have admitted it is relevant. I understand the issue about  
17 the prior agreement, which was before there was inklings of  
18 counterclaims to come. That is a sufficient changed  
19 circumstance. You have conceded today that if the  
20 counterclaims are approved that the tax returns are relevant to  
21 the issue.

22 I had previously ordered, whether you understood it or  
23 not, that the parties and certainly the defendant could have  
24 discovery on the counterclaim. So therefore it is an  
25 appropriate time to produce them now, not as you have suggested

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1 waiting and producing them after Judge Daniels rules on the  
2 counterclaim issue if Judge Daniels approves the counterclaim.

3 However, in fairness to you I will preclude the  
4 Transit Authority from relying on the tax returns in any  
5 present summary judgment motion that is not aimed at the  
6 counterclaims.

7 MR. LICHTEN: Okay.

8 THE COURT: Final question, because I hope this is our  
9 last conference, we left it at the last conference that  
10 defendant would advise me if they wanted to have the settlement  
11 conference. I don't think I have heard from defense counsel on  
12 that subject.

13 Do the parties want a settlement conference?

14 MS. GOETCHEUS: No, your Honor.

15 THE COURT: Let me ask you this: Would you want a  
16 settlement conference that left open, if plaintiff was  
17 amenable, the subject of the counterclaims? In other words,  
18 settle plaintiff's claim and whatever Judge Daniels does or  
19 perhaps at that point with this case in abeyance -- or over  
20 rather -- the counterclaim would be best put in front of the  
21 Transit Authority mediator who dealt with the prior issue or a  
22 successor, mediator if that person is no longer on the list?

23 MS. GOETCHEUS: Well, the arbitrator has no  
24 jurisdiction over Mr. Gorrick who is not an employee.

25 Anyway, I don't think our answer would be different.

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1 I will explore that with my superiors, but I do not believe  
2 that our answer will be different. I will contact the Court if  
3 there would be a difference.

4 THE COURT: Your summary judgment motion remains due  
5 February 19th regardless, unless we settle the case before  
6 then.

7 MS. GOETCHEUS: I understand.

8 THE COURT: Anything else, folks?

9 MS. GOETCHEUS: Not from me.

10 MR. LICHTEN: Can someone fax me the order form for  
11 the reporter?

12 THE COURT: The reporter will do that.

13 I will officially adjourn us now other than to say  
14 that both sides are required to purchase the transcript. I  
15 will warn both sides, particularly plaintiff, that pursuant to  
16 28, U.S. Code, Section 636 and the Federal Rules of Civil  
17 Procedure 6 and 72, each party has 10 business days from this  
18 conference to file any objections with Judge Daniels. The 10  
19 business days starts running immediately regardless of when you  
20 get the transcript from the court reporter. Failure to file  
21 objections, of course, constitutes a waiver for all further  
22 purposes.

23 To reiterate there is no stay of my order and the tax  
24 returns must be produced or the appropriate releases given to  
25 defense counsel by Monday.

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1 With that we are a officially adjourned, but I will  
2 let you talk to the court reporter to deal with ordering  
3 issuing.

4 MS. GOETCHEUS: Thank you, your Honor.

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